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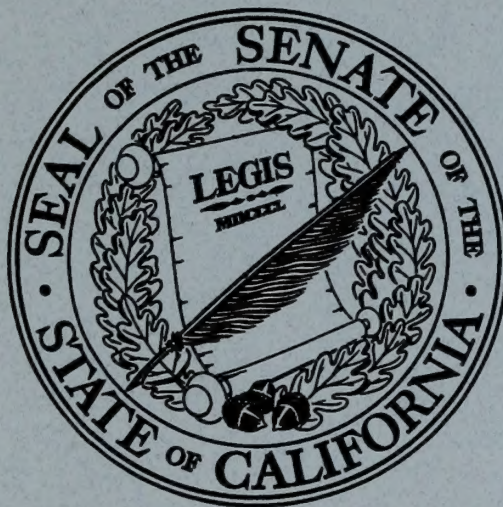
HEARING
SENATE RULES COMMITTEE

STATE OF CALIFORNIA

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 16, 2007

1:40 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

ASSEMBLY MEMBER JOE COTO

SENATOR ELAINE ALQUIST

JAMES D. ASCHWANDEN, Member
State Board of Education

RUTH BLOOM, Member
State Board of Education

DAVID P. LOPEZ, Ed.D., Member
State Board of Education

ANDREW D. ESTEP, Member
State Board of Education

CESAR DIAZ
State Building and Construction Trades Council

1 FRED JONES
California Business Education Association
2
3 DOROTHY ROTHROCK
California Manufacturers and Technologies Association
4
5 CHRIS WALKER, Legislative Advocate
California Industrial and Technology Education Association
6
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8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INDEX

	<u>Page</u>
Proceedings	1
<u>Governor's Appointees [Appearing as a Panel]:</u>	
JAMES D. ASCHWANDEN, Member	
State Board of Education	1
Background and Experience	2
RUTH BLOOM, Member	
State Board of Education	1
Background and Experience	5
DAVID P. LOPEZ, ED.D., Member	
State Board of Education	1
Introduction and Support by	
ASSEMBLY MEMBER JOE COTO	1
Introduction and Support by	
SENATOR ELAINE ALQUIST	4
Background and Experience	7
ANDREW D. ESTEP, Member	
State Board of Education	1
Background and Experience	10
Statements by CHAIRMAN PERATA re:	
Bizarre Governance Structure	13
Large Segments of Population	
Being Failed by System	13
Exit Exam	13

Questions by CHAIRMAN PERATA re:

Miserable Results of High School Exit Exam	14
Response by MR. ASCHWANDEN	14
Response by MS. BLOOM	15
Response by DR. LOPEZ	17
Response by MR. ESTEP	19

Statements by SENATOR CEDILLO re:

Recent District Conference for the California Dream Act, SB 160	20
Lament of CSU LA Professor that Students' Inability to Pass CAHSEE Was Deterrent to Admission into University	21
Exit Exam as False Barrier	22
Certificate of Completion as Possible Alternative to CAHSEE	22

Questions by SENATOR CEDILLO re:

Views on Alternatives to CAHSEE	22
Response by MS. BLOOM	22
Response by DR. LOPEZ	24

Statements by SENATOR CEDILLO re:

Lack of Spending for Education	26
Assembly Bill (SOTO) to Reimburse Parents for Participating	26
SB 551 Dealing with Including History of Illegal Deportations of American Citizens Into Curriculum	26

1	Questions by SENATOR CEDILLO re:	
2	Should Legislature Be Prescriptive	27
3	Response by MS. BLOOM	27
4	Statements by CHAIRMAN PERATA re:	
5	Lack of Board's Interaction with	
6	Legislature	28
7	Statements by SENATOR PADILLA re:	
8	Importance of Parental Involvement	29
9	Unique Perspective of Student Member	30
10	High Dropout Rate	30
11	Lack of "Drop-in" Problem	30
12		
13	Questions by SENATOR PADILLA re:	
14	Addressing No Child Left Behind Act's	
15	Requirement that English Language	
16	Learners Be Proficient in English in	
17	Four Years	31
18	Response by MR. ASCHWANDEN	31
19	Response by DR. LOPEZ	33
20	Response by MS. BLOOM	34
21	Response by MR. ESTEP	41
22	Role of Charter Schools in California	37
23	Response by MR. ASCHWANDEN	37
24	Response by MS. BLOOM	38
25	Response by MR. ESTEP	40
26	Response by DR. LOPEZ	42
27		
28		

Statements by SENATOR PADILLA re:

Frustration on Governance Issue 43

Review of Board's Achievements in
Future Confirmations 44

Statements by SENATOR DUTTON re:

"Kids Are Neither Democrat Nor
Republican" 44

Open Invitation to Work with Board 45

Questions of MR. ESTEP by SENATOR ASHBURN re:

Feelings about Late Confirmation
Hearing for One-year Appointment 45

Suggestion by SENATOR ASHBURN that Rules
Committee Move Confirmation Hearing of
Student Member Quicker 46

Questions of MR. ESTEP by SENATOR ASHBURN re:

Extent of Staff's Management of State
Board of Education 46

Are Issues of Importance to Students
Getting to State Board 47

Need for Clearer Orientation as to
Responsibilities of Board Members 48

View on Replacing Text Books with
CD ROMs 49

Response by MS. BLOOM 50

Statements by SENATOR ASHBURN re:

Need for Board Support of Replacing
Text Books with CD ROMs 51

Questions by CHAIRMAN PERATA re:

Charter Schools and Board Members' Vote for Regulations on Prop. 39 to Provide Students Services	52
--	----

Response by MS. BLOOM	52
-----------------------------	----

Statements by CHAIRMAN PERATA re:

Need for Systematic Review of Bills Introduced in Legislature, then Evaluation and Monitoring	53
---	----

Appreciation for Work of Board Members	54
---	----

Need for Urgency in Improving Education in California	54
--	----

Commitment of Legislature	55
---------------------------------	----

Witnesses in Support of MR. ASCHWANDEN:

CESAR DIAZ State Building and Construction Trades Association ...	56
--	----

FRED JONES California Business Education Association	56
---	----

DOROTHY ROTHROCK California Manufacturers and Technology Association ..	56
---	----

CHRIS WALKER California Industrial and Technology Education Association	57
---	----

Motion to Confirm	57
-------------------------	----

Committee Action	57
------------------------	----

Termination of Proceedings	57
----------------------------------	----

Certificate of Reporter	58
-------------------------------	----

Written Responses to Committee Questions
By Appointees, as well as Written
Statements by Appointees Not Required to
Appear: Member of the Seismic Safety
Commission: ANDREW A. ADELMAN; Members of the
Court Reporters Board: YVONNE K. FENNER,
GREGORY M. FINCH, and TONI C. O'NEILL;
Members of the Industrial Welfare Commission:
TIMOTHY T. CREMINS, DANIEL M. CURTIN,
LESLEE A. GUARDINO, and WILLIE WASHINGTON;
Members of the Medical Board of California,
Division of Medical Quality: JOHN CHIN, M.D.,
DORENE C. DOMINGUEZ, REGINALD I. LOW, M.D.,
JANET K. SALOMONSON, M.D., and FRANK V.
ZERUNYAN; Member of the Medical Board of
California, Division of Licensing: GARY
GITNICK, M.D.; Members of the State
Mining and Geology Board: CHERYL A.
BLY-CHESTER and ALLEN M. JONES; Member,
Commission on Peace Officer Standards and
Training: RONALD E. LOWENBERG

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We have four appointees, all for the Board of Education.

We think we're going to have you all come up at the same time just for laughs.

Would James Aschwanden, Ruth Bloom, Andrew Estep, and David Lopez all please come forward.

They're not here.

DR. LOPEZ: Who's not here?

CHAIRMAN PERATA: Are you Mr. Lopez?

DR. LOPEZ: Yes, I am.

CHAIRMAN PERATA: Your supporters are not here.

DR. LOPEZ: Joe Coto is right there.

CHAIRMAN PERATA: Oh, Joe, I'm sorry. Come on up, Joe. You don't have to be uncharacteristically shy.

What you can do is just grab a corner mic. That way you don't feel compelled to talk too long.

Well, we're we not going to interview you, so say something.

[Laughter.]

ASSEMBLY MEMBER COTO: On behalf of Dr. David Lopez, who is the President of National Hispanic University, I've known him for a long time, former professor at New Mexico State Highlands and at Fresno State University.

He's running a very exciting program there in San Jose, a school for Latino college prep academy, trying to get more kids into the university system. He has a long history of

1 educational experience.

2 I think he'll do a great job on the State Board
3 of Education, and I'm here just to speak on his behalf.

4 CHAIRMAN PERATA: Thank you.

5 Mr. Lopez, he was my high school teacher. He did
6 a really good job.

7 That's Assembly Member Joe Coto.

8 Joe knows from what he speaks. He was the
9 superintendent in Oakland when it was solvent.

10 [Laughter.]

11 CHAIRMAN PERATA: And he left it solvent. We
12 tried to get him back, but he thought that being in the Assembly
13 would be more fun.

14 I hope your wishes have come true. Thank you for
15 being here, Joe.

16 If Elaine Alquist gets here, she's a Senator.
17 She's on her way? From where is the question.
18 Who would like to go first with a brief opening
19 statement?

20 MR. ASCHWANDEN: Thank you, Senator.

21 Jim Aschwanden. I currently serve as the
22 Executive Director of the California Agricultural Teachers'
23 Association. That is my background. That's -- those are my
24 roots.

25 I grew up in the Central Valley, went to Fresno
26 State and got a degree in ag. business management. Was going to
27 enter the ag. business profession, and then did some job
28 shadowing and found out that I didn't like banking, and decided

1 that I needed to really look at perhaps paying back some benefit
2 that I think had really been bestowed to me by some very
3 dedicated ag. teachers who had been at my local high school.
4 And so, I decided to stay a year at Fresno State, get my
5 credential.

6 I was going to teach for a year or two to pay
7 back those great teachers, and ended up teaching high school for
8 17 years, and then was hired on to be the Executive Director of
9 the Association.

10 Shortly after I accepted this position, I also
11 served two terms on a high school governing board.

12 So, I would just like to say, I think what I
13 bring to the table is at least a panoramic view of all the --
14 not competing interests, but the very passionate interests that
15 are out there in education.

16 And my natural affinity is to try to meet the
17 needs of all students. One nice thing about being a career tech
18 education teacher was that, and an ag. teacher especially, we
19 needed every kind of student in our program in order to be
20 successful. We need UC researchers in ag. We need a lot of
21 technicians. We just need a lot of good people to do a lot of
22 good work.

23 And so, it never mattered much what their
24 interest was, or what their background was, we welcomed them,
25 and we tried to help them succeed.

26 I still have that same passion today about trying
27 to meet the needs of all students. That's sometimes an empty
28 phrase, but I think it's an important concept.

1 This past 15 years, I haven't always been shy
2 about questioning why we're doing some of the things we're doing
3 in education. I think we've done a lot of good things. I think
4 there's more work to do, and I'm looking forward to being part
5 of that.

6 CHAIRMAN PERATA: You had me when you said you
7 didn't want to go into banking.

8 [Laughter.]

9 CHAIRMAN PERATA: Senator Alquist, would you like
10 to introduce, or say a word?

11 SENATOR ALQUIST: Yes, thank you very much,
12 Mr. President.

13 I would like to introduce and say a few words
14 about David Lopez, who is President -- so good to see you,
15 David -- who is President of National Hispanic University.

16 David is really an extraordinary educator, and in
17 my opinion as a former teacher, would make a major contribution
18 to the state if his candidacy is confirmed to the State Board of
19 Education.

20 I would just like to mention two or three things
21 about David. He has great experience, and he has great
22 passion.

23 And the National Hispanic University has the same
24 feeling, and has made great accomplishments. As an example, the
25 debate team recently was described in the press as the winner,
26 of a David-and-Goliath-scope, in the Ethics Bowl Debate
27 Competition, winning the title for California and then going on
28 to defeat major universities, including West Point, in the

1 national competition. No small task. And I was just so very
2 proud of David and the university.

3 A particular interest that he brings that I think
4 would be very beneficial to the State Board of Education is that
5 he has spent his career focused on the specific needs of
6 economically marginalized, under-served, and under-utilized
7 students in our educational system.

8 NHU is in my Senate district in San Jose, and
9 through David, the University has always been open to us in
10 terms of hosting events. I've had my Women's Health Forum there
11 every year since I've been in the State Senate.

12 In closing, I would just like to say that I think
13 David would be a huge asset to the State Board of Education. He
14 has my highest and strongest recommendation.

15 CHAIRMAN PERATA: Thank you, Senator.

16 SENATOR ALQUIST: Thank you.

17 CHAIRMAN PERATA: Would you like to say
18 something?

19 MS. BLOOM: Okay. My name is Ruth Bloom.

20 I have been on to the State Board of Education
21 for the past three years. And if you confirm me today, I will
22 serve the children of the State of California for another term.

23 I am a native Californian, and very proud of
24 that. I am a subject or a graduate, I should say, of California
25 public schools.

26 Service has been a big, big part of my life, and
27 serving children is -- has been the most important. I taught in
28 the Los Angeles Unified School District. I taught all kinds of

1 kids in K-6.

2 When I was teaching, I kept wanting to know what
3 was the problem? Why were the issues that I was dealing with
4 at the sixth grade level so prominent? And I kept going down
5 and down in the grade level, and I realized that the problem was
6 at home, and that we really needed to reach and do a lot of
7 parenting education.

8 And I went on to get a master's degree, and did
9 everything but a dissertation in early childhood education.

10 I worked for a period of time as a parenting
11 specialist, and now I'm using those skills as a grandparent and
12 learning how to sit back and not interfere, a little different
13 than being a parent.

14 And then I became -- my avocation is the arts.
15 And I was a gallery owner for ten years. And I was a school
16 board member in L.A. County, the L.A. County Board of
17 Education.

18 And I have served California for the last three
19 years at the state level.

20 I believe that in the statement that I gave to
21 you, that I emphasized that one of my skills is to be able to
22 bring people together. And with my knowledge of the Robert's
23 Rules of Order, I've been able to make sure that we move safely
24 and securely forward.

25 I believe we have a huge task and a
26 responsibility to the children of California, and to you the
27 Legislature, in terms of working together. And one of my goals
28 for the next four years would be to develop a relationship that

1 is a deeper relationship with the Legislature over the very,
2 very big issues that affect the children, the 6.3 -- and I'm
3 sure it's probably a little more -- million children that we
4 serve K-12 in the State of California.

5 There are big pressing issues ahead of us: a
6 declining teaching force; growth of more English language
7 learners; following NCLB testing.

8 But I do support the standards-based education
9 that we have, and I do hope that we can continue to bring a
10 strong education to our children, and to make the future of
11 California as strong as it can be.

12 CHAIRMAN PERATA: Thank you.

13 I feel like we all ready know you, but
14 please.

15 DR. LOPEZ: Thank you, Senator. You've heard a
16 little bit about me, and I want to thank Senator Alquist and
17 Assemblyman Coto for those kind words.

18 I will start out by saying that I've been very
19 fortunate. I was raised by parents that didn't speak English
20 very well, but -- and I come from very humble beginnings. And I
21 may not have had financial riches, but I was rich in love, and
22 my parents were very good about providing that.

23 One of my concerns growing up is, my friends as
24 we grew up, many of them, the majority of them, didn't finish
25 high school. And I was able to go on to college for a variety
26 of reasons, mostly my parents and my brother, Frank. I received
27 an undergraduate degree and studied with some very excellent
28 people. I became a teacher, wanted to become a principal.

1 I got into my master's program, and people there
2 thought, you ought to become a professor of education. And I
3 thought, wow. I never imagined that my family -- I was the
4 first in my family to really go to college. So, I went on and
5 got my doctorate at New Mexico State, studied education, studied
6 a lot of the issues that we're dealing with today.

7 And I was recruited to Fresno State. Was in the
8 Valley for 22 years. Had a great career, and I was working with
9 Dr. Cruz from the National Hispanic University, who was a
10 faculty member there, and thought he should start a university
11 dedicated to the issues related to Hispanic education.

12 And it wasn't a new and novel idea. Historically
13 black colleges of the south have 44 institutions, producing 80
14 percent of the black leadership. Brandeis University started
15 for Jewish Americans that couldn't -- wouldn't get into Harvard,
16 couldn't get into Harvard because of quotas.

17 So, he did this 25 years ago. People thought he
18 was crazy. Some of my mentors that were Hispanic thought he was
19 crazy. They thought, go into the CSU, go into the UC system,
20 but he stayed the course. And to his credit, he established the
21 university. I met him about 12 years ago. I helped him with
22 accreditation.

23 I still remember when he told me, "David, we're
24 going to work toward WASC accreditation."

25 And I said, "Well, you don't have a library. We
26 don't have faculty."

27 He says, "We'll get it."

28 And to his credit, for nine years we pursued

1 that, and I was with him as a volunteer from Fresno State
2 because I really wanted to help because I thought it was an idea
3 that was worthy. We continued it and developed it.

4 He passed away of cancer. I thought it was my
5 personal professional obligation to step up.

6 The National Hispanic University -- you probably
7 may be scratching your head, where is that? It's in San Jose.
8 It's a university that's a liberal arts, private, fully
9 accredited by WASC today. And we have about 800 students there
10 taking classes.

11 We also have a charter school of 9-12 high --
12 charter high school on the campus which Joe Coto helped
13 establish. And we're trying to address the issues related to
14 Latino education, and we're addressing the dropout problem, the
15 academic achievement problem, the college-going rate, parental
16 involvement, all in the same campus, if you will, from ninth
17 grade to the baccalaureate.

18 We're trying to move them seamlessly. I say
19 "trying," because we don't have all the answers, but we have the
20 prototype, the model. And we're going to move these kids from
21 ninth grade to the baccalaureate. And there's a lot of people
22 like Senator Alquist and Joe Coto that see the value in this
23 model.

24 We have a great relationship with San Jose State,
25 the community colleges, the school districts.

26 I'll make a little advertisement here. Joe Coto
27 and I have been working on a bill to try to get some -- some
28 dollars to work with San Jose State so that we can do the

1 research and go down beyond our high school into seventh and
2 eighth grade, even into the elementary grades, to look at what
3 those best practices are for English language learners that are
4 from low socio-economic backgrounds.

5 And I have to tell you folks, this is a very
6 serious issue in our state. That's about a third of our
7 population that are English language learners, that are low
8 socio-economic, and we have some efforts taking place. All
9 students seem to be struggling in our state, but at that lower
10 level, the one-third, there's some serious challenges.

11 So, our university, our high school, and our
12 efforts are addressed -- are looking at how we can address
13 that.

14 And with that being said, I welcome the
15 opportunity to serve on this board, to bring my experiences,
16 both professional and personal, to bear on what I think is a
17 very important time in this, in education in California today.

18 So with that, I'd like to thank you for hearing
19 me. Thank you.

20 CHAIRMAN PERATA: Thank you.

21 We'll hear from the junior member of the firm.

22 MR. ESTEP: Good afternoon.

23 My name's Andrew Estep, from San Bernardino
24 County. I'm a senior at Serrano High School.

25 And I've written a brief statement that I think
26 best summarizes up some of my ideas, as opposed to something I'd
27 roll off the top of my head.

28 So, good afternoon, Mr. Chairman, distinguished

1 Members of the California State Rules Committee, honored guests,
2 and colleagues of the State Board of Education.

3 As a child, I entertained far-fetched dreams of
4 political greatness. As a child, I dreamt of representing
5 millions. As a child, I dreamt of making a difference.

6 And at 16 years old and still a child, I did just
7 that. Only in California, in our prosperous and thriving state,
8 could I have accomplished such a seemingly elusive dream.

9 This dream, this responsibility, has been my
10 tenure on the California State Board of Education, serving as
11 the direct representative of the over 6 million students of our
12 state.

13 Throughout this experience, I have been immersed
14 in the policy-making body of our education system. In doing so,
15 I have moved to further the voice of the constituents, or
16 rather, the customers of this education system.

17 And what an honor it has been. I wholeheartedly
18 commend the California Board of Education for creating and
19 upholding the student member position. The creation of such a
20 position is not only the democratic but the right thing to do.

21 This position has allowed me to further a
22 personal mission to encourage students to take a stand in their
23 education through the use of a statewide program called the
24 Student Advisory Board on Education. This is a program
25 sponsored by the California Association of Student Councils. It
26 is a conference that takes place every year in November.
27 Students from all over the state assemble to create educational
28 proposals to present to the State Board.

1 I have localized this program, encouraging
2 students all over the state to entertain meaningful dialogues on
3 the triumphs and issues of their local education systems, create
4 proposals on ameliorating such concerns, and present these
5 proposals to their local school boards.

6 My clout as a member of the State Board has truly
7 furthered the success of this program.

8 I would like to thank all of the decision-makers
9 of our great state for allowing a student voice on the
10 California State Board of Education. California is truly
11 leading the pack in education reform, specifically by allowing a
12 student to represent his peers in key educational
13 decision-making.

14 It has been the greatest experience of my life,
15 serving -- serving in such an influential position with such
16 esteemed colleagues, and especially those who are here with me
17 today: Miss Ruth Bloom, Mr. David Lopez, and Mr. James
18 Aschwanden. I feel truly honored to be in the presence of such
19 brilliant educational leaders, and I commend the Governor for
20 appointing such highly qualified individuals to the State Board
21 of Education.

22 Thank you again, Members of the Rules Committee
23 and Mr. Chairman, for moving to further democracy by allowing
24 me, a kid from a blue-collar town, with a dream to sit on the
25 most motivated and influential Board of Education in our nation.
26 By projecting my one voice, you have allowed 6 million to be
27 heard.

28 Thank you.

1 CHAIRMAN PERATA: Thank you. Well said.

2 Well, now we're going to get into the fun portion
3 here.

4 [Thereupon the Committee
5 acted upon legislative
6 items on the agenda.]

7 CHAIRMAN PERATA: First of all, we want to
8 acknowledge that you're all volunteers doing this work.

9 We have a rather bizarre way of governing
10 education in this state. If I was a suspicious person, I would
11 think it was designed so that accountability would not be held,
12 but I know that's not true.

13 But we recently got the results of getting down
14 to facts, which said that we are failing a lot of large
15 segments: poor kids, African-Americans, special education
16 students, English learners.

17 I represent Oakland, and a conservative estimate
18 is that only 46 percent are graduating.

19 I think one of the -- not that anybody asked or
20 cares -- but one of the bad votes that I cast since I've been
21 here has been on the Exit Exam, because I think we allowed
22 everybody to believe that simply by having an exam, it would be
23 what was necessary to improve things, as though students were
24 not working hard enough only because there was no reason. But
25 now, once we gave them a reason, they're just going to kick in.

26 That's a perfect view if you've never had kids,
27 been around kids, or have never been a kid.

28 What I want to talk about, and I think other

1 members of the board would want to talk about as well, are some
2 specific things.

3 The first one would be the High School Exit Exam.
4 Why do you think we are failing? We have the exam now. We have
5 miserable results among important segments of our population.

6 Notwithstanding the family situation, which we
7 could always default to, what do you think's going on? What
8 could we be doing better?

9 MR. ASCHWANDEN: Well, I think the more you look
10 at the situation, we know some things. We -- I think it's
11 encouraging, Senator, in some ways that we're -- we're now
12 discussing whether we have a 30 or a 38 percent nongraduation
13 rate.

14 When I started coming to Sacramento 15 years ago,
15 we were talking about a six or seven percent dropout rate, and
16 we accepted that as that's what it was. And we didn't dialogue
17 openly about the unpleasant reality that there were probably a
18 lot fewer kids even then succeeding.

19 And then as we -- we raised the bar, and as we
20 did some things in the early '80s, which had all the good
21 intentions in the world, we're at a point now where I think we
22 need to be courageous enough to ask the questions about what
23 have we done right, and what have we done well, and what haven't
24 we anticipated?

25 One of the favorite terms that I hear in this
26 building a lot is "unintended consequences."

27 We also have today in education, I think, some
28 unpleasant realities. The rate at which our kids are not

1 graduating -- and your choice of the High School Exit Exam is
2 interesting because, you have to understand, I don't know that
3 that plays as big a role. We had 43,000 students pass the High
4 School Exit Exam last year, or at some point they passed it, and
5 they still didn't graduate. They didn't fail high school. They
6 didn't flunk out. They left.

7 And we hear from Gates, and Time, and all the
8 other studies, and all these people looked at this, it's not
9 relevant to them. The curriculum that we've created in some
10 ways has shut the students out of the opportunity to -- to look
11 at the issues and -- and course work in the curriculum that
12 they're interested in.

13 We've chased a goal of raising the bar, and in
14 some ways doing that, we narrowed the door.

15 There are no easy solutions, Senator. And I
16 guess I'm hopeful we have the courage to keep asking the
17 questions about what can we do to turn some of this around.
18 It's simply, to me, a job of going to those people we haven't
19 talked to, the kids that are walking with their feet, and doing
20 what we can to interest them and re-engage them in the
21 curriculum.

22 MS. BLOOM: I think my response would be just a
23 little bit different.

24 First of all, I think and I know that this state
25 is working very hard to have a tracking system, a student
26 identifier system, for the students in California.

27 And I don't want to blame our failures as
28 educators on the fact that we don't know which kids are or are

1 not graduating. But the truth of it is, we do not know if the
2 numbers are what the numbers are.

3 A student that comes into ninth grade, and then
4 you don't -- he doesn't graduate, or she doesn't graduate at the
5 end of twelfth grade, we don't know if that student has moved,
6 gone to another district, dropped out. We have no knowledge of
7 what happened to that student.

8 So, I don't know if the statistics are truly
9 measurable in the way they have been measured.

10 But leaving that aside, the truth of it is, is
11 even regarding the students that -- the 43,000 that Jim is
12 talking about -- there are students that never get the proper
13 counselling. They don't know what classes to take for
14 graduation. They may pass the -- the CAHSEE, but they don't
15 take the right classes. And they don't take the right classes
16 because the ratio of counsellors to students is 900-1 in the
17 State of California.

18 And I do know, and I do thank the Legislature for
19 giving more money towards dropping that down, but we're going to
20 drop it down to about 700. And you tell me if one counsellor
21 can see 700 students in the course of a year. I don't think
22 so.

23 So yes, we have a lot of issues. We have a lot
24 of problems.

25 I don't like testing kids, you know, spending
26 hours a year testing kids all the time.

27 But I don't think the CAHSEE is a mistake. I
28 really don't.

1 I do think what is a mistake is not engaging
2 students in the areas that will be of interest to them. I think
3 the fact that we're going to have Career Tech, and I did vote
4 for that as a school board member, I believe that we are going
5 to look at the future of education in this state where we have
6 kids that will be engaging in an education that will be of
7 interest to them and to their careers after high school.

8 CHAIRMAN PERATA: Thank you.

9 DR. LOPEZ: As I said in my opening statement, I
10 come from an environment and a high school where a lot of my
11 friends dropped out of school, and I was very curious about it.
12 So, I -- as I studied the situation as an undergraduate, and
13 even at the doctoral level, it was something I -- I realized was
14 very complex. It's not very simple.

15 But the reality is that our students are dropping
16 out at a rate that's unacceptable. Jim mentioned some numbers
17 there of about 30 percent across the state.

18 Well, with Latino students and people of color,
19 it's about 50 percent in some districts, if you go from ninth
20 grade to twelfth grade, not just the twelfth grade year, which
21 is required by the No Child Left Behind.

22 So, this new data, hopefully a data system that
23 we're going to implement, or hopefully will implement to track
24 students is important.

25 More importantly is why are they leaving? And
26 one of the reasons I think is, obviously, that academic
27 achievement gap. It doesn't happen in twelfth grade or eleventh
28 grade. It starts happening in third grade. The kids can't read

1 in the third grade. We know that they're going to fall further
2 behind when they have to read fourth grade content, such as
3 California Missions, which is taught in fourth grade.

4 We know also that kids in preschool do better if
5 they get a good start and prepare themselves, along with their
6 parents, to be successful as they move through the grades.

7 We also know that eighth grade algebra, if a kid
8 doesn't pass eighth grade algebra, how can we expect him to
9 progress in the more advanced courses in high school?

10 So, the entire system needs to be looked at, and
11 we have some challenges.

12 But I think it's important that especially, as I
13 said earlier, at the university I'm at -- and I hate to keep
14 bringing this up -- but the high school that we have, and the
15 proposal that Joe Coto and I have been working on with middle
16 schools and elementary schools, is to develop a pilot, if you
17 will, an experiment where we can look at these best practices,
18 these processes and procedures. Look at what students are
19 doing, what teachers are doing, teacher preparation. Look at
20 what parents are doing and their involvement.

21 This whole thing has to be assessed. There has
22 to be some pilots, some research. Otherwise, we're going to
23 continue to tinker around the edges and do things to students
24 that we think are in their best interest.

25 But we have just an unacceptable number of
26 students not making it through our system. And I think that we
27 again, my thought is, we need to do some research, and it needs
28 to be done very quickly.

1 CHAIRMAN PERATA: What do you think about the
2 High School Exit? Did you take it?

3 MR. ESTEP: The Exit Exam?

4 CHAIRMAN PERATA: Yes.

5 MR. ESTEP: Yes, I did.

6 Personally, I feel we're looking at eighth grade
7 math here. I mean, give me a break. I mean, if that's the
8 standard we're going to hold kids to, I think we're doing a
9 disservice to them, quite honestly. And I know I speak on
10 behalf of a lot of my peers within our district.

11 This test, it can be harder. It can be more
12 difficult. I don't -- it boggles my mind that we hold our kids
13 to -- to such a low standard.

14 I know, and I'm sure that many people would
15 agree, "Andrew, you're a high achieving student. Of course it's
16 not going to be difficult for you."

17 But like I said, I speak on behalf of many of my
18 peers.

19 But as far as preparing those students who aren't
20 passing, I feel that I would have to echo what -- what Ruth was
21 saying as far as in terms of counsellors.

22 Moreover, the root problem of that, I think, is a
23 lack of parental involvement. But how do we go about solving
24 that? How do we get parental involvement? How do we change the
25 apathy as far as from a parental standpoint? How do we do that?
26 How do we change the culture, the mindset?

27 And it's -- I don't think it's something that we
28 necessarily can tackle. But as far as what can we do instead of

1 encouraging parental involvement, I mean, we have counsellors
2 who can then encourage students on courses they can take if
3 parents are not interested. And encourage them to pick classes
4 that are of interest to them to create education of interest,
5 quoting what Ruth had said. And in doing so, I think by
6 creating an education of interest, guided by counsellors for
7 students, it does exactly that. It gets them interested in
8 their education, and therein prepares them for an Exit Exam that
9 we -- that we currently uphold.

10 As of right now, I think the next logical step
11 would be, how do we prepare these students? How do we get them
12 interested in their -- in their education?

13 I think we need to create counsellors who, that's
14 their specific job as a counsellor at a high school, and really
15 encourage that role within our -- within our high schools.

16 Unfortunately, when budget cuts come in, that
17 seems too often to be the first thing to go, is counsellors.
18 It's a crucial role in our high schools, and I think it's
19 something that we should fully invest in for the education of
20 our students and the future of this state.

21 CHAIRMAN PERATA: Thank you.

22 Do you want to talk about this issue before you
23 leave?

24 SENATOR CEDILLO: I have the same question.

25 I just wants to convey a couple of things, and
26 some thoughts, and then some situations.

27 This week my office held a conference of high
28 school students. Somewhere between 400-500 students showed up

1 from 9:00 to 3:00 o'clock in the afternoon. Most of them, or
2 maybe a third, or 40 percent of them were undocumented.

3 It was a conference for the California Dream Act,
4 SB 160.

5 I was there the whole day. Our local electeds
6 were there. We even had the Governor from New Mexico, Bill
7 Richardson, was there.

8 I was there for the whole day. And a professor
9 came to me from Cal State LA, I believe. And she came, and I
10 was sitting by myself. And she came up to lament the Exit
11 Exam.

12 And her concern was that, in fact, she had people
13 who were admitted to the CSU system. They were preparing
14 financial aid packages for them. They had them queued up to
15 enter. But that their inability to pass the exam was a
16 deterrent.

17 Nonetheless, the university felt comfortable
18 reviewing their academic record that they could be successful if
19 admitted into the university.

20 And so, it created this dilemma. The university
21 says, "You're admissible. You meet our minimum criteria.
22 Here's a financial aid package. We see your grades. We see
23 your performance. We've evaluated everything that is part of
24 your package, your circumstances, et cetera. But you haven't
25 passed this Exit Exam. As soon as you pass it, you're in."

26 If the student doesn't pass it, they can't get
27 in.

28 And so, it just seemed like kind of a false

1 barrier that we were constructing for someone who was on track
2 to be a productive member of our society. My staff and I talk
3 about this. My staff member was a board member with the CSU.

4 He asked lots about some type of Certificate of
5 Completion that would be accepted in lieu of this Exit Exam if
6 National Hispanic University wanted to invest in the student, or
7 if CSU LA, or CSU San Bernardino wanted to invest in this.

8 I'm interested in your views of an alternative,
9 both for admission to community college, or CSU, or UC, if they
10 are interested.

11 And second, alternatives for disabled students,
12 students with learning disabilities, or special needs students,
13 other alternatives other than the Exit Exam.

14 So, give a stab at that, and then I have some two
15 or three other questions.

16 MS. BLOOM: I guess I'll step to the plate here.

17 It's interesting to me that you could have a
18 student that will be capable of meeting all their classes,
19 performing well in a high school, doing the essays, et cetera,
20 that are needed for college entrance, and yet couldn't pass a
21 tenth grade English level exam, or a eighth grade math exam.

22 It seems -- I don't understand that. I really
23 don't.

24 And I think that one of the things that has
25 happened in the last year, since 2006, when it was instituted,
26 was the fact that there has been a lot of programs available. A
27 student can take those exams, I believe, I think four times in
28 high school, then they can take -- they get tutoring after high

1 school. They can continue for two years to take classes and to
2 be tutored to take the CAHSEE and to pass it.

3 Now, I don't want to seem like somebody that is,
4 you know, so wedded to an exam, but it is a standard that I
5 believe that is not set high, according to what Andrew, a
6 student, has said, but it's there.

7 I think it's a travesty if students have been
8 accepted by CSUs or by UCs. I think that a local district, in
9 an agreement with the universities, could perhaps come up with
10 some kind of temporary acceptance, maybe something where, you
11 know, they will accept the student if they pass it within the
12 next year. I don't know. I think that would be the
13 relationship between that university and that student, or that
14 school district.

15 The Special Ed, we just passed it recently in
16 which I very clearly said in public meeting, the changes we made
17 so it would be not the parent asking for a waiver, but the
18 principal, leaving the responsibility onto the principal of the
19 Special Ed student to be able to take the test with all of the
20 accommodations, you know: taking it with a calculator; taking
21 it with it being read to them; a lot of different things. Just
22 making it easier for a Special Ed student to take the CAHSEE.

23 I said it's a baseline. I said that in public
24 session. It is a baseline, the change that we made last week.
25 And it's not something that the school board is going to let go
26 away.

27 I understand your interests. I know my
28 interests. I want to see all students succeed.

1 I will give you an antidote [sic]. I have a
2 relative who is a Special Ed resource teacher. And she told --
3 when I told her what we had done at the board meeting last week
4 with the changes, she said, "You know, whatever I'm doing in IEP
5 for any student," she's a middle school resource person, she
6 said, "I check the box for high school graduation. I don't want
7 to limit them. But that doesn't mean that that student is
8 capable of that, or rather a Certificate of Completion."

9 And we all have these high goals. And I think
10 what we did last week is a step. It's a step to solving some of
11 the issues that you're concerned with.

12 But if the CAHSEE has any meaning, and, you know,
13 the Legislature passed it, we've supported it, and if it's to
14 have any meaning to business people hiring students from our
15 state, or to universities, that that diploma means they can
16 read, and understand, and comprehend at a tenth grade level, and
17 that they can do math at an eighth grade level, then we have to
18 keep it.

19 It doesn't mean we can't stop tinkering with it.
20 It doesn't mean that UC -- the UCs or Cal State Universities
21 can't figure out a way for those students, for whatever the
22 reason there is, to work with them on a temporary acceptance. I
23 think that can be done on an individual basis.

24 I don't know if that answers your question. I
25 know I'm as concerned about these issues as you are.

26 DR. LOPEZ: Let me also coattail on what Ruth
27 just said.

28 As I indicated earlier, our charter high school,

1 9 through 12, is all English language learners. And we have a
2 95 percent pass rate on the CAHSEE.

3 At first we didn't, but we worked with the
4 students, as you said, because we wanted them to come into the
5 university. As we said, we have that pipeline, the seamless
6 movement of these students, so we provided some work during the
7 year. And the ones that didn't pass CAHSEE, we worked with them
8 very closely in the summer in order for them to enter in the
9 fall into our university.

10 So, we're not only looking at when they take the
11 test and after, we're also looking at before they take the
12 test.

13 So, it's an opportunity, again, for more research
14 to find out.

15 And I know we're we doing this. And I'm asking
16 the teachers and the principal there, how are you doing it?
17 And, you know, it's a lot of work, and sometimes it can even be
18 meet on Saturdays to work with some of these kids.

19 So, it can be done, but you've got to be
20 innovative. There's got to be some innovative ways of
21 addressing some of these issues.

22 That's my response to that.

23 CHAIRMAN PERATA: We don't, unfortunately, have
24 time to have everybody swing at the same pitch.

25 SENATOR CEDILLO: Just two, very quickly.

26 Nell Soto has a bill on parental involvement.

27 Now, I don't want to give a speech, but the fact
28 of the matter is that we were once number one in educational

1 spending, then the 48th. Or, I don't know where we're at, 32nd,
2 or something like that.

3 I don't know how we can have any idea -- this is
4 the speech -- of sustaining our global competitiveness, fifth or
5 sixth largest economy in the world, when we're 32nd in our
6 country in spending. Not in all the nations, but 32nd in
7 investment in education.

8 How do we expect to maintain that? That's why we
9 have one counsellor for 900 or 700.

10 But in an economy where you have a low wage
11 workforce which is a characteristic of it, parents working one
12 or two jobs, parents working in the evening, parental
13 involvement's not -- it's easier said than done.

14 Nell Soto has a bill that would reimburse parents
15 for participating in meetings. Studies show if parents
16 participate, students do better. It's real simple. So, I would
17 direct you to that.

18 The other point is, there is a proposal that I
19 have that deals with history, SB 551. Senator Joe Dunn had done
20 a lot of work on the illegal deportation of American citizens
21 during the '30s. It's part of our history, as is the interment
22 of Japanese-Americans, but it's not part of our history that is
23 incorporated in the curriculum of the state.

24 I'm concerned. I would like that to be part of
25 our history. It should be noted.

26 So, the Governor, and I agree with the Governor,
27 I don't like us to be prescriptive towards you, but at the same
28 time I feel compelled that we must make people aware so don't we

1 repeat those errors, particularly at this moment of tremendous
2 anti-immigrant hysteria.

3 So, where are you on this? What needs to be
4 done? Do we need to be prescriptive and give you a bill that
5 says, "This should be part of the curriculum," or is there any
6 work being done on this since Senator Dunn had passed this
7 legislation?

8 MS. BLOOM: It's not a matter you needing to be
9 prescriptive.

10 I really believe that that is something that has
11 to be directed to the Department of Education in terms of when
12 we do our Curriculum Commission, and we address the social
13 studies and history textbooks, that that's a part of California
14 history or American history. And I believe that that -- that's
15 the way to handle it.

16 I don't think that, you know, putting a law into
17 effect that you must do this is a way to do it.

18 This is actually the first that -- I mean, I'm a
19 graduate of a California high school, and public schools, and
20 this is really the first I really know of this as a person and
21 as an educator.

22 So, I certainly would agree with you that it's an
23 important part of a history. If -- if educators don't know
24 about it, how are students going to be taught about it?

25 So, I think that the Department of Education
26 needs to, when they have Curriculum Commission meetings,
27 especially when we're dealing with new textbooks, that this is
28 something that should be included. I -- I thoroughly agree that

1 it needs to be included.

2 CHAIRMAN PERATA: You know, while we're on this
3 point, do you guys as an institution, as a board, there are more
4 lobbyists around here than there are trees in the forest. I
5 mean, they're just all over the place. Most of them are paid
6 for by public money.

7 And I'm not suggesting you need a lobbyist, but
8 there's no interaction at all.

9 We pass bills here because that's what we do.
10 We're law makers. But we never have any interaction with you on
11 the front end. So, if you think it's a silly ass idea, we never
12 know. If we pass a law, we never know whether or not we're
13 implementing it or you're implementing it according to the
14 intent. With term limits, people don't have any chance to
15 oversee what's been going on.

16 There is a gap. Most of this stuff that we talk
17 about here I just think is so much chatter. I've been around
18 too long to think that there's any way that we're going to do
19 some things and fix them institutionally.

20 But there is no excuse for us not being able to
21 discuss what we think is good with what you think is good.

22 The problem is, you know, education's like sex
23 and sports. Everybody's participating, even by themselves, so
24 they think they're experts. And as a consequence of that,
25 everybody comes up here with an opinion.

26 So, I'd like to come back to this at the end, but
27 it is interesting. You can have Joe Dunn working on this stuff,
28 and thinking it's really good, and you don't even know what

1 we're talking about.

2 I don't fault you, but it's not the first time
3 this has come up. A member came before us not too long ago, and
4 it was like he just fell off his horse and had this conversion.
5 We were talking about all this really neat stuff. So, you know,
6 we have these monologues going.

7 So, we can go back to that, but it is striking to
8 me.

9 Alex, I know you have to leave.

10 SENATOR PADILLA: Thank you.

11 I still have another half hour. I'd like to be
12 here for --

13 CHAIRMAN PERATA: Take the whole half hour,
14 please.

15 [Laughter.]

16 SENATOR PADILLA: I wait as long as I can.

17 First of all, Mr. Estep, I want to thank you for
18 bringing up the parental involvement piece, because you went
19 down the row of experts, with all due respect, and when we're
20 talking about dropout rates, and performance, and what-not, you
21 were the first and only one to bring it up. And obviously it's
22 important.

23 I remember having done some research when I was
24 in college about what are the biggest factors in a student's
25 success, academic success. And from field interviews to
26 research papers I read, and everywhere in between, it all really
27 pointed back to the family environment.

28 Yet, when we talk about the dropout situation, we

1 tend not to talk about parents, family. We're talking abo
2 Exit Exams, and credentialed teachers and not credentialed
3 teachers, big over populated or crowded schools versus not,
4 those sorts of things.

5 So, I just wanted to sort of commend you on
6 that. And that's why there is a student representative on the
7 board, because you bring a unique perspective.

8 A quick comment before I ask a question on
9 English language learners, but as far as the dropout rate goes,
10 I know that's a topic discussed by many, and it's debated by
11 many.

12 I come from a district that's served by the Los
13 Angeles Unified School District, where, depending on who you
14 ask, the dropout rate is anywhere between 40 and 60 percent.
15 And too often people get caught up in what the right number is.

16 It doesn't matter what the right number is,
17 because if it's 60 percent, or if it's 50 percent, or if it's 40
18 percent, or 33 percent, it's still way too high.

19 So, I want the discussion to be shifted
20 elsewhere. And one of the things that I don't buy in the debate
21 over the accuracy of the numbers is, because we're not able to
22 account for every head from the ninth grade to the tenth, and
23 from the tenth to the eleventh, from the eleventh to the
24 twelfth, because we don't know if they're transferring to other
25 districts, I just don't buy it.

26 Because I have yet to hear a school official come
27 to this Capitol and talk about the drop-in problem that they
28 have. That they had a thousand students in the tenth grade, and

1 by the time they went to the eleventh grade, there was two
2 thousand students.

3 So, on a statewide basis, there's a net dropout
4 situation, regardless of how you look at it.

5 We talked about the dropout rate, the impact of
6 the Exit Exam.

7 I want to ask a question specifically as it
8 pertains to English language learners. No Child Left Behind
9 requires that English language learners be proficient in English
10 over the course of four years. On average in California, it's
11 taking us six years to transition English language learners into
12 English proficiency.

13 Adding to that, we have some English language
14 learners that begin that transition process in the first,
15 second, third grade. Districts like mine and elsewhere, we have
16 some English language learners enrolling in school and beginning
17 that transition process in the eighth, ninth, or tenth grade.

18 Your thoughts on how we address this issue?

19 MR. ASCHWANDEN: Well, Senator, I'd like to
20 respond by saying this. There's been a lot of discussion, and I
21 wasn't involved in it -- I've only served on the board since
22 September -- but I understand a lot of the issues in the
23 discussion about specific programs, how they work, how -- how
24 things get done.

25 I am married to a first grade teacher who served
26 for 25 years in a school that has high English learner
27 populations. This is a topic of conversation around our dinner
28 table. And I, over the years, have asked Cathy, what -- what is

1 the secret?

2 And let me tell you where I think I am on this.
3 I don't think the program is as important, and the tools need to
4 be used properly. And we have schools that do, I think, a
5 pretty good job of getting kids through that transition, and get
6 them moving forward quickly.

7 We have other schools who are challenged to do
8 that. And when you break down what's going on, it's the
9 schools that have highly experienced teachers, highly
10 experienced administrators, that are -- that have undergone a
11 great deal of professional development, where you see the
12 success.

13 And to just -- a very basic analogy, I think
14 there are schools that are struggling because they -- it's not
15 that they don't have the tools. They just can't figure out how
16 to open the tool box.

17 The application of what works needs to be spread
18 throughout California. And in too many cases, we see schools
19 where inexperienced teachers are churning through the system.

20 These transfer -- you know, a teacher gets three
21 years of experience, and they're applying for a transfer to
22 another campus. And as administrators get some experience,
23 they're transferring to another campus. Those schools are going
24 to struggle no matter what program we have, no matter how that
25 system's designed.

26 My concern is, how do we get the professional
27 development done? How do we encourage experienced teachers to
28 stay and commit to those schools and those children? How do we

1 get districts to incentivize administrators and team leaders to
2 stay there and do the hard work that needs to be done?

3 And my wife boils it down and says, "Jim, it's
4 all about people. If you have the dedicated people committed,
5 not just present but committed, it will work."

6 And EL success is dependent upon the people that
7 you give the tool box to.

8 Senator, we need to keep asking hard questions
9 about what can we do better. And when we find out what best
10 practices are, we need to incorporate those in public -- in
11 professional development activities that are targeted and
12 financed, quite frankly. We can't do this on the cheap.

13 Throwing money at a problem isn't going to make
14 it go away, but we have got to make sure we invest in those
15 kinds of training programs.

16 DR. LOPEZ: I'd like to coattail on what Jim said
17 there. Some of the -- all of the things he said, I think, are
18 important.

19 One of big challenges, and you did say it,
20 research. We've got to determine what those best practices are.
21 Make sure that they're documented. Make sure that we understand
22 them through this kind of prototype, and then disseminate that
23 prototype across the state.

24 One of the things that really concerns me is that
25 with the English language learners especially being about a
26 third of the population, and then you have others that are not
27 English language learners that speak English but may be
28 Hispanic, or other students that are low socio-economic, I think

1 sometimes the kids that are English language learners are in
2 classes with kids that already speak English. And teachers
3 begin to focus on the English language learners and not focus on
4 the kids that already speak English. And those kids that speak
5 English are being held back, I think.

6 So, we need to really look at those things.
7 Those are some of the things, the questions or research, that we
8 should be looking at.

9 And I really believe, after many years of looking
10 at this question, it's -- it's not simple, and I don't think we
11 have all the answers as to what we're going to do with these
12 English language learners early on. It's a major challenge and
13 continues to be.

14 So again, I just echo the part of research, and
15 we need to have those best practices documented.

16 MS. BLOOM: I would just like to add something to
17 that, Senator Padilla.

18 That there are really best practices out there.
19 We've been doing a lot of research. We've been teaching English
20 language learners for 30, 40, 50 years in this state. I taught
21 them in East L.A., when I was a teacher in the '70s.

22 We know how to do it. People do know how to do
23 it.

24 But I want to echo what Jim says. We're not
25 sharing enough of the best practices with the teachers, with the
26 universities.

27 The universities are almost at the same kind of
28 disconnect, the teaching institutions, as Senator Perata said

1 that we are to you, in that they don't coordinate with what does
2 the state standard say, and then teach teachers how to do that.

3 I've seen such great programs. I've seen them in
4 -- at an elementary school in East L.A. that I visited about
5 year ago, where the principal was a dynamo. The teachers had
6 graduated from that school in the heart of East L.A. And you
7 walked into every classroom, and those kids were attentive, and
8 the teachers were incredible.

9 They also had something which I thought was key.
10 They had a parent room that -- where the parents took classes
11 themselves, classes in English, classes in finance, or you know,
12 how to budget, and that sort of thing. And it was a real
13 community center.

14 We need more of that. We have had programs, and
15 we're seeing -- we'll get the research back from some of it, but
16 the principle, you know, training that we've done, where
17 teachers -- where principals are being trained and spend 80
18 hours a year or two years to complete, so they learn the best
19 way of doing it.

20 I've been involved with Teach for America -- it's
21 a private organization -- since its inception in California. I
22 have seen those teachers, how great they are.

23 And yet, they struggle and struggle to get their
24 teaching credential, and get into districts because they don't
25 fit into the rules. But these are people that are bright,
26 smart, and know how to interact with kids.

27 It's getting great teachers. It's -- I think we
28 know how kids learn how to speak English by now. I think we do

1 know that.

2 But it's getting that best practice out there.

3 SENATOR PADILLA: A follow-up question for you,
4 because I've heard you make a couple of comments. We've been
5 doing this for 30, 40, 50 years. We know what works.

6 MS. BLOOM: Yes.

7 SENATOR PADILLA: We know how to do it.

8 Do you believe test scores and academic
9 performance in California for the English language learners
10 reflect what you just said?

11 MS. BLOOM: Do they reflect the teaching?

12 SENATOR PADILLA: You just said we know how to
13 teach English language learners.

14 MS. BLOOM: Yes, but you know, we know --

15 SENATOR PADILLA: I look at the statistics --

16 MS. BLOOM: -- that they're not doing it. There
17 are teachers that are not doing it. There are inexperienced
18 principals who are not leaders.

19 SENATOR PADILLA: So, you're here before this
20 Committee for consideration for confirmation to the State Board
21 of Education.

22 What needs to be done different?

23 MS. BLOOM: Oh, I think one of the real strong
24 factors is a better coordination between teacher training
25 institutes, I think is really important.

26 I think it's incentives for teachers to stay in
27 schools that are low socio-economic, or English language learner
28 schools. I think incentives for that.

1 I think it's more parental involvement, where the
2 parent and the student go to school together in some form.

3 I think it's a matter of people of power, if you
4 will, or -- or in this state going into their local communities,
5 going into the schools, talking to the teachers, "What do you
6 need? What do you need as a principal to make this work?"

7 I mean, I don't think it's a -- I know that
8 there's lots of money that gets funneled down into schools, and
9 that there's almost an incentive not to get the kid out of the
10 program because they get more money.

11 SENATOR PADILLA: Let me ask each of you for your
12 quick thoughts or perspective on charter schools and the role of
13 charter schools in California? And then have a final question
14 just to wrap it all up.

15 Charter schools.

16 MR. ASCHWANDEN: Well, charter schools have
17 exactly the same profile, and exactly the same problems, and
18 exactly the same challenges as any other segment of education.

19 I believe that there are outstanding charter
20 schools that have found ways to achieve success that, in some
21 communities, that they haven't been able to do in a public
22 school system.

23 I think there's also charters who are not
24 performing. We have excellent charter schools, and we have
25 charter schools that need to be shut down, and are regularly.

26 The charter school option, to me, the important
27 factor is that I think there's a system set up in California
28 whereby charters go through a local approval process. They can

1 apply to local school districts and work those issues through,
2 which often, in the case of my own community, I think caused the
3 school board to really look at what they were doing. And I
4 think that was healthy.

5 If they -- if they need to go to the county
6 office of education, they can do that. And as a last resort,
7 they can come to the State Board of Education and apply for a
8 charter sponsored by the State Board. I think those are all
9 healthy options.

10 We have had instances since September, when I
11 began my service on the board, of approving a number of those
12 and of denying some, based on the merits and the quality of the
13 program.

14 I do not believe that charter schools are a
15 panacea for all the problems that -- that we encounter in
16 education. And if we look to that one -- one narrow application
17 of a solution, we're missing the opportunity to make our public
18 schools better.

19 Senator, I don't -- I don't know how to respond
20 to people who ask me how I feel with about charters. I was
21 involved in a local discussion and was actually promoting the
22 concept of a charter school in my own community, until the local
23 school district paid enough attention to alter some of their
24 practices, and the need evaporated. That's healthy.

25 And so, it's only as good as the people that --
26 this education profession, Senator, is a people business. And I
27 don't know how else to explain that.

28 MS. BLOOM: I think that one of the benefits of

1 charters, and remember they are public schools, these are funded
2 by the public.

3 One of the benefits of charters is that they can
4 be models for other schools around them, in the state, and
5 throughout the nation. There are innovative practices that many
6 of these charters provide, and that is one of the things that
7 I'm hoping, in the next several years, that I can make sure that
8 these best practices from the charters get passed to the other
9 schools in their district.

10 There's lots of the reasons why a charter gets
11 started, and there's lots of reasons why they come before us.

12 And the truth of it is, it's a small -- we spend
13 an inordinate amount of time on charters at the State Board
14 level, more so than you would think for a smaller proportion of
15 the amount of kids that are going to them.

16 But the charter schools that I have visited, and
17 I have visited a middle school in Los Angeles, and I have
18 visited a -- two high schools in Los Angeles.

19 And you see kids actively engaged in learning.
20 And you see it at a normal public school.

21 There is hostility, and it's based over finances
22 between local districts and charters, because the money, instead
23 of coming into the local district, goes to the charter school
24 directly for the ADA. So, you have problems with that.

25 And you have, you know, huge districts not
26 wanting them. We had a situation last week where a charter came
27 before us, Aim High in San Francisco. They have the right to
28 appeal to the county, but as you all know, that San Francisco is

1 a school -- is a district and a county combined. So, when
2 they're rejected by the Board of Education in San Francisco,
3 they're rejected by the County.

4 And there have been many cases that have come
5 before us where they fit all the prerequisites that are set in
6 law about what they can -- how a charter can start, and they're
7 rejected out of hand.

8 It's a balancing act, but for me, the most
9 important thing about charters is that the best practices that
10 come out of those charters have to be shared with everybody,
11 because they are best practices.

12 And I'm with Jim. If they're not doing anything
13 different, if their scores are not rising, out of there.

14 MR. ESTEP: I wouldn't agree completely with Ruth
15 as far as -- and echoing what Jim said. As far as charter
16 schools serving as an outlet for -- in my opinion, they hold
17 students to a -- there's a higher standard. There's a feel
18 there.

19 There's a district in -- or there's a school in
20 our district, Heritage. It's K-8, which is a charter school.
21 And in our district, that -- you can tell that school fosters a
22 -- there's a higher standard there. And I feel that that
23 school, it models desired outcomes for the schools surrounding
24 it. And it's sort of there as -- as an example.

25 And I think that is almost more important than
26 what is going on there itself, is the impact that that school is
27 having on the community.

28 Oftentimes you'll hear different faculty members

1 from the other schools saying, "Oh, what's going on over there
2 at Heritage?" You know, "We've got to up our standards."

3 And I think that's good that we have -- that
4 schools, charter schools, that encourage that kind of healthy
5 competition, or that encourage -- that lay out a standard.

6 And as far as -- real quickly I wanted to touch
7 on the previous question that you had regarding English
8 learners, in that I believe that what is far more important than
9 students learning how to speak English is having these students
10 want to learn to speak English.

11 At our -- at our high school, we have a program.
12 Every Tuesday we have Advisory for the entire student body,
13 which is actually a 30-minute period that touches more on life
14 lessons and what-not. And for students who are struggling to
15 learn English, or going through, you know, programs to learn the
16 language, they have a program called Fiesta where they go. And
17 they learn -- they're motivated to -- it's nothing
18 curriculum-based, but they are strictly -- it's more
19 psychological. They are motivated to speak the language.

20 And I think if you have students who want to
21 speak English, that is more important than them actually doing
22 it themselves, is having that -- that desire.

23 So, I think if we're going to pour money into
24 research and what-not on best practices, I think we should pour
25 money into seeing how -- how do we motivate these kids? How do
26 we make them want to learn? Because if you want to learn how to
27 speak English, I think you could do it in a year if you wanted
28 to; you could do it in two years.

1 So, I think the real question here is, how do we
2 get these kids to want to learn the language? So, I think by
3 maybe appropriating funds, just specifically looking at how do
4 we -- how do we get these kids to want to do it, to want to
5 learn, to show them what their futures could be like, what --
6 you know, the options out there for them by learning -- by
7 learning English as their second language.

8 And so, therein I think that we can sort of
9 create an objective plan for them. And in doing it, do baby
10 steps. I mean, you're not going to learn the language in no
11 time. Maybe set out a timeline: In six months I want to be
12 able to read a short story in English and write a paper on it;
13 and then, you know, in a month I want to be able to have a
14 conversation with a friend who speaks English.

15 So, I think by laying out baby steps for these
16 kids, and most importantly, making them -- making them want to
17 learn how to speak the language, is the -- is the key here.

18 DR. LOPEZ: My response, Senator, in reference to
19 charter schools, I think there's specific criteria in order to
20 become a charter.

21 At the state level, we have a Charter Advisory
22 Committee, I think, that does very thorough work. Looks at
23 those charters and does -- makes some good recommendations that
24 go before us.

25 I agree with Ruth. I think that the charters
26 provide us with an opportunity to look at some best practices.
27 I know at our Latino college prep, what we're trying to do is
28 look at those practices and share them with other comprehensive

1 high schools. And those other comprehensive high schools
2 sometimes maybe over-regulated, sometimes are systemic problems
3 in the system that don't allow them to experiment, to explore,
4 to look for those best practices in the easiest way.

5 And that's what we're doing at our charter high,
6 and it seems to be working.

7 SENATOR PADILLA: Thank you. I know we're taking
8 lot of time. I appreciate my colleagues' indulgence.

9 Let me just wrap up with this. Not another
10 question, but I think it's important for this Committee to ask
11 you some policy-specific questions to get you all on the
12 record.

13 I've shared with couple of you already an equal
14 frustration not on a policy issue, but on the governance issue.
15 Senator Perata raised it earlier.

16 We have this weird set-up in California between
17 this board, the Superintendent of Public Institution, the
18 Secretary of Education which is part of the administration, the
19 balance between state and local authority.

20 And in the past, I've heard far too often that
21 sort of being the excuse for why you can't do more, whether it's
22 in or outside of your jurisdiction or your authority.

23 I'm hearing today a commitment and a sense of
24 urgency from you today that I haven't heard from previous
25 nominees, and that's encouraging.

26 But as you can see, this Committee takes its work
27 and these deliberations seriously.

28 In due time, each of you will be, if approved

1 this go-around, coming back through for reappointment at some
2 point, and we'll be revisiting these very same conversations.
3 We'll be comparing what test scores may be, and dropout rates
4 may be, and what-not at that point in time versus what they are
5 today, and using that as part of our consideration in the
6 future.

7 Thank you..

8 CHAIRMAN PERATA: Alex, I know, has to leave, so
9 I want to open the roll, allow him to vote.

10 SECRETARY WEBB: Padilla.

11 SENATOR PADILLA: Aye, aye, aye, aye.

12 SECRETARY WEBB: Padilla Aye on all four.

13 CHAIRMAN PERATA: Thank you.

14 SENATOR DUTTON: Not so much a question as just a
15 general statement and comment.

16 I was told by a former legislator that my father
17 introduced me to when I was first contemplating my move to come
18 to the Legislature, and that was Senator Leroy Greene.

19 Senator Greene had told me that at the time, he
20 said, "Keep one thing in mind. Kids are neither Democrat nor
21 Republican."

22 So, I promise to you that I will always keep that
23 in mind.

24 I do want to work with you. The future of
25 California is something that's obviously very important to all
26 of us. Within you, we entrust the future of California for the
27 future generations.

28 So, I just want to extend an open invitation from

1 my office to work with you in anything that you feel is critical
2 for our kids.

3 Thank you.

4 CHAIRMAN PERATA: Senator Ashburn.

5 SENATOR ASHBURN: Thank you, Mr. President.

6 I want to ask Andrew, you are a full voting
7 member of the State Board of Education. Your vote counts
8 towards the two-thirds when a two-thirds vote is required.

9 The other members serve four-year terms. You
10 serve twelve months. You've already served nine months when you
11 finally come before the Rules Committee.

12 So, I guess my question is not so much for you,
13 but for those who will come after you.

14 It occurs to me that the student appointment to
15 the State Board ought to come to the Rules Committee within the
16 first month of the appointment.

17 How do you feel about that?

18 MR. ESTEP: I would completely agree.

19 I was speaking with some friends at school and
20 some other people who are familiar, my family, with my role up
21 here. I said, "I've got my confirmation hearing tomorrow."

22 And they said, "That doesn't make sense. You
23 know, you were appointed back in September."

24 So, if there's any way we could sort of expedite
25 that process, make it happen a little quicker, I would have
26 appreciated that.

27 And I think just as far as the, you know, the
28 whole political process is concerned, I think that makes more

1 sense, instead of -- you know, confirmed or not for me, I'm done
2 in July.

3 So, I think we need to look at how we can better
4 make use as far as getting that quickly after their appointment.

5 SENATOR ASHBURN: I find you to be very
6 articulate, very knowledgeable. There's no doubt you contribute
7 a great deal to the work of the State Board.

8 I've had the privilege of meeting three of your
9 predecessors during my time on the Rules Committee. They
10 likewise are very talented, gifted, and I'm sure contributing
11 members.

12 And basically, when we see you, it's time to say
13 good-bye.

14 MR. ESTEP: Right.

15 SENATOR ASHBURN: As you can tell, each of the
16 Members of the Rules Committee, in fact every Member of the
17 Legislature, has very strong opinions about our kids and how
18 they learn.

19 And so, this is the one opportunity that we have
20 to dialogue about that.

21 So, I appreciate that, and I would make that
22 suggestion, Mr. President, that in the future we move that
23 student appointment to the Rules Committee as quickly as
24 possible so that we can have input.

25 CHAIRMAN PERATA: Yeah.

26 SENATOR ASHBURN: I'm also going to ask you,
27 Andrew, to what extent do you believe that the State Board of
28 Education is managed by the staff?

1 MR. ESTEP: The State Board staff?

2 SENATOR ASHBURN: Yes, or the State Department of
3 Education, or the Governor's Secretary of Education.

4 As you know, we have a very incoherent structure
5 of governance.

6 MR. ESTEP: Right, I would agree. I mean, I hear
7 of someone new involved in education everyday, it seems like.
8 You know, another player on the field.

9 And I think that we need to -- I personally am
10 still a little fuzzy on -- on the relationships between, you
11 know, the Legislature, and the State Board, and the Governor's
12 Office.

13 And I think for -- specifically for new members
14 of the State Board, we need to have some sort of, I guess, you
15 know, State Board 101 on what this -- this sort of governing
16 body, what their responsibilities are, and their relationship to
17 other governing bodies within Sacramento, and how we all play
18 our part in education. I think it needs to be much more clearly
19 outlined.

20 Specifically, I mean, I, as a student member, am
21 still not entirely clear on how this "machine," quote-unquote,
22 functions. So, I think that we need to, like I said, give a
23 more clear outline of that.

24 SENATOR ASHBURN: And then let me be more
25 specific about the Executive Office that serves the board
26 itself.

27 In your opinion, are the issues that are most
28 important to the students, to learning, to the operation of our

1 schools, do those get to the State Board? Or is the material
2 that gets to the State Board managed by the staff?

3 MR. ESTEP: That's interesting that you bring
4 that up, because I touched on my opening statement how the
5 California Association of Student Councils sponsors a statewide
6 program where the students create proposals on what's wrong with
7 their education system, and they present it to the State Board.

8 And unfortunately, it seems year after year, our
9 response to these students is that, oh, we don't have much
10 jurisdiction over those issues. And they're issues of
11 overcrowding in schools, drug and alcohol intervention programs
12 within schools.

13 So, some of the issues that I went into the State
14 Board, having them close to heart, are not so much issues that
15 we would discuss. It's more accountability standards, and
16 what-not.

17 So, I think that, you know, being able to once
18 again sort of -- especially for the student member coming in,
19 clearly outline what the responsibilities of the State Board
20 are: This is what we do, and this is what we don't do.

21 SENATOR ASHBURN: You don't feel that in your
22 orientation you got that --

23 MR. ESTEP: No.

24 SENATOR ASHBURN: -- clearly enough?

25 MR. ESTEP: No. And that's the difficulty of
26 having a one-year term. You're in and you're out. The staff is
27 constantly, you know, there's --

28 SENATOR ASHBURN: I hope the staff is listening

1 with respect to the future, not just of the student member, but
2 of all the members. That first orientation ought to be very
3 clear on the authority of the State Board, and how the State
4 Board relates to the other structures that we've talked about.

5 MR. ESTEP: Right.

6 SENATOR ASHBURN: I'm going to ask you one other,
7 and that has to do with textbooks.

8 Textbooks are part of the cost of education.
9 They're part of the method of instruction.

10 They are extraordinarily expensive. They are
11 amazingly heavy. They are printed on the highest quality of
12 paper from trees that we don't desire to cut down, with full
13 color inks.

14 Now, with violence and school safety, a lot of
15 lockers have been taken out. Kids are lugging these around on
16 their backs.

17 What do you think about taking textbooks and
18 putting them on CD ROMs for every student and doing away with
19 textbooks altogether?

20 MR. ESTEP: That makes sense to me, listening to
21 all the reasons that you noted.

22 I mean, welcome to the 21st Century. I'm not
23 sure why we're not already there. It seems like it makes sense
24 to me.

25 SENATOR ASHBURN: Do you know a single student
26 who doesn't have a personal computer or a laptop?

27 MR. ESTEP: No. And if there are, these
28 computers are available to them in school.

1 SENATOR ASHBURN: For the cost of one textbook,
2 we could buy a reader that wouldn't be connectable to the
3 Internet for every student in California to read a CD ROM. For
4 the cost of one textbook, not the four or five or six that you
5 have to have in each class.

6 So, I hope you'll help me in the future with my
7 legislation to eliminate textbooks, to break the strangle-hold
8 of the textbook publishers on our on state, and to move to CD
9 ROM format, and move into the modern age.

10 MR. ESTEP: I'm a very strong advocate, yes.

11 SENATOR ASHBURN: Great. Thank you very much.

12 CHAIRMAN PERATA: I don't know about the staff
13 hearing something, but I'm sure the textbook representatives
14 heard that.

15 [Laughter.]

16 MS. BLOOM: May I just speak to what Senator
17 Ashburn just said?

18 Last week we had that same discussion, exact same
19 discussion about textbooks versus CD ROMs at the board level.

20 And you weren't -- you weren't at our meeting, so
21 you weren't aware of that discussion.

22 There's also a stick, a little stick that is
23 also -- it's the newest instead of a CD ROM.

24 But I think the option of having CD ROMs as well
25 as textbooks where a school district could afford to buy those,
26 that the CD ROMs are replaceable, and copyable.

27 It's a brilliant idea, and it is the 21st
28 Century.

1 And we -- I just want you to know, we are on top
2 of that. We have had that discussion. We are continuing to
3 investigate that.

4 SENATOR ASHBURN: And as I understand it, you'll
5 be Chair of the Board next year. So, I would appreciate your
6 assistance and the support of the Board if it's a good idea,
7 because I have encountered incredible resistance.

8 This is an idea that also knows no party, as
9 Senator Greene would probably have recognized. The kids are
10 neither Republicans nor Democrats in the learning that needs to
11 take place similarly, in the way that materials are provided to
12 them.

13 And we really ought to move on with this. And we
14 could save a tremendous amount of dollars in the system.

15 MS. BLOOM: You weren't there when I said that my
16 aunt -- and thank goodness, my son wasn't there -- but I said my
17 son, who's an adult now, is lopsided because of carrying that
18 backpack on one shoulder, with the weight of the textbooks. And
19 that conversation came up last week.

20 SENATOR ASHBURN: I used to be six-foot-five
21 before.

22 [Laughter.]

23 SENATOR ASHBURN: Now I'm five-foot-six.

24 [Laughter.]

25 CHAIRMAN PERATA: For any trial lawyers
26 listening out there.

27 I have one question that I don't believe came up.
28 If it did when I was out, just say so. About charter schools.

1 I think two of you, Mr. Lopez and Ms. Bloom,
2 voted for regulations on Prop. 39 that seemed to some as an
3 expansion of the intent of the law.

4 You voted to require districts to provide student
5 services that directly support the classroom.

6 How did you arrive at that? Do you remember it?

7 MS. BLOOM: Well, I can't forget some of that.

8 The truth of it is, is there's a lot of districts
9 that would like to have charter schools go away for mostly as I
10 said earlier, financial reasons.

11 But the reality of it is, is that they're there,
12 and they need to be supported.

13 I mean, we have had many people representing
14 charter schools come before us that have said that they have to
15 literally pack up their schools on Friday afternoon, and unpack
16 them again on Monday, that they're in church basements.

17 So, this seemed to be, and having read all of
18 this material -- and I'm notorious for reading it all -- it
19 seemed to be the most equitable way, by passing these
20 regulations, to make it fair.

21 I don't think the charter school people were
22 totally happy with everything, and I don't think the district
23 people were totally happy with what is happening.

24 But, you know, there are charter schools that
25 have taken over schools because they served a district around
26 them. And then, you know, the district can have them change the
27 lines of that school's border, so therefore they're not serving
28 the local students, and then take away their site, and then sell

1 their site, or do whatever they need to do.

2 I mean, there is kind of a hostility and an
3 ignorance, if you will, between what charter schools do, and
4 what -- how they can help the districts.

5 Much like our relationship with you in the
6 Legislature.

7 I am hoping that we can have a dialogue once a
8 month, once every -- you know, if we can put aside an hour where
9 we can all meet, you know, when we're up here for a board
10 meeting, I think it would behoove us all.

11 And in the same way, I would like to see charters
12 and districts have that kind of dialogue.

13 But I think that this was a compromise. And I
14 don't think we were giving away, you know, the bank, so to
15 speak.

16 CHAIRMAN PERATA: Okay, thank you.

17 Be careful, though, we've had this law of
18 unintended consequences. I don't think anybody was advocating
19 for a monthly meeting.

20 [Laughter.]

21 MS. BLOOM: How about every six months?

22 CHAIRMAN PERATA: There you go.

23 I do want to again emphasize that I don't know
24 how it's best accomplished, but I do think having a systematic
25 review of the bills that are introduced around here, and there's
26 no paucity of them, and a threshold evaluation upon
27 introduction, and then some kind of monitoring.

28 I would imagine you have enough staff on the

1 Board of Education to find one person to do that.

2 It just seems to me to be illogical that we have
3 that breakage between what we're doing and what you're doing.

4 I again want to just thank you for what you do.
5 When I was a classroom teacher, I was much more sanguine about
6 the future of public education than, frankly, I am right now.
7 I'm not sure what works; what doesn't work.

8 I do know that it hasn't gotten any better since
9 we put more funding responsibilities on the state.

10 But I also know that the complexity of educating
11 children in California today is far more different than it was
12 when I left the classroom in 1981. And we are asking for
13 schools to do more and more, and giving them less and less.

14 And I think one of the big problems in this
15 building is, you can have an entire -- and I know it's true
16 because I'm familiar at local school boards -- you can have
17 entire discussions where children never are brought up. We're
18 talking about adults, and working conditions, and all this other
19 stuff. We never talk about the kids.

20 So, my only hope, you'll leave here today, and
21 you're done. You know, you're confirmed. And frankly, we never
22 see anybody again.

23 So, if we can just figure out a little bit how to
24 do that, that would be extremely useful.

25 I also would ask you to do something that we all
26 know is axiomatic. The problem with kids is that they get old
27 every day, or older. And so, unlike the conversations that we
28 have around here about building a dam, or widening the freeway,

1 there is no urgency to that.

2 But I have raised two children, and now I have
3 three grandkids. And I'm already figuring out what I expect my
4 kids to do with regard to their children's education, which was
5 vastly different than the decisions that I made. But they're
6 not about to say, you know, we've got a ten-year plan. As soon
7 as you say that, they checked out.

8 So, we don't have a lot of time. You've got to,
9 I think, just kick some ass.

10 I think, you know, I told the Committee one day,
11 we were talking about health care. And I said, "You know, the
12 only thing that we all have in common here is that we all have
13 health care insurance." We're sitting around, philosophizing
14 about what's the best thing to do, and we have tens of thousands
15 of people within the sound of our voices that don't have any
16 insurance.

17 And so, one thing is, we're all employed in the
18 great industry of education -- you're not necessarily; the \$100
19 I don't think is employment -- but my blood runs cold when I
20 hear, "This is something we're going to study," or, "We have to
21 have more data." Bull shit.

22 Get up there, take a swing. You couldn't be any
23 more wrong than we are right now.

24 So God bless, good luck. As Bob said, we're
25 always here.

26 I think one thing we've all come to realize in
27 many pursuits is that there ain't no Democratic or Republican
28 way to do it, and we're committed to trying get it done.

1 Again, I thank you for what you've done.

2 Where the hell do you live?

3 MR. ESTEP: San Bernardino.

4 CHAIRMAN PERATA: I looked at all the hints, but
5 I couldn't -- Serrano, Phelan -- I couldn't figure out where it
6 was. Okay, I've got it now. Thank you.

7 Now that I've closed the proceedings, anybody
8 want to come up and say anything for, in support of?

9 MR. DIAZ: Cesar Diaz with the State Building
10 and Construction Trades Council in support of Jim Aschwanden.

11 CHAIRMAN PERATA: Thank you.

12 MR. JONES: Fred Jones, California Business
13 Education Association in support of Mr. Aschwanden.

14 CHAIRMAN PERATA: You're not going to give us
15 your real name? You're just going to use that alias?

16 [Laughter.]

17 MR. JONES: Mark Smith. Whatever it takes,
18 Senator.

19 [Laughter.]

20 CHAIRMAN PERATA: Thank you.

21 MS. ROTHROCK: Good morning. Dorothy Rothrock,
22 California Manufacturers --

23 CHAIRMAN PERATA: When you got here it was
24 morning.

25 MS. ROTHROCK: It's the afternoon, I understand.

26 [Laughter.]

27 MS. ROTHROCK: Dorothy Rothrock, California
28 Manufacturers and Technology Association, in support of Jim

1 Aschwanden.

2 Thank you.

3 MR. WALKER: Chris Walker on behalf of the
4 members of the California Industrial and Technology Education
5 Association. Proud to be supportive of Jim Aschwanden.

6 CHAIRMAN PERATA: Anybody here in opposition?
7 Seeing none, please call the roll.

8 SECRETARY WEBB: Cedillo.

9 SENATOR CEDILLO: Aye.

10 SECRETARY WEBB: Cedillo Aye. Dutton.

11 SENATOR DUTTON: Aye.

12 SECRETARY WEBB: Dutton Aye. Ashburn.

13 SENATOR ASHBURN: Aye.

14 SECRETARY WEBB: Ashburn Aye. Perata.

15 CHAIRMAN PERATA: Aye.

16 SECRETARY WEBB: Perata Aye. Five to zero.

17 CHAIRMAN PERATA: Congratulations to you all.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing
20 was terminated at approximately
21 3:15 P.M.]

22 --ooOoo--

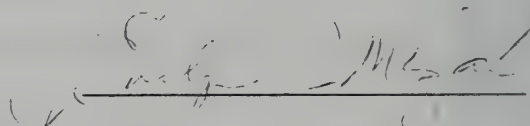
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of May, 2007.


EVELYN J. MIZAK
Shorthand Reporter

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APPENDIX

Goals, Roles, and Responsibilities

1. What do you hope to accomplish as a member of the State Board of Education?

I hope to bring a perspective that recognizes the needs and aspirations of all students in our K-12 system. Having spent 17 years as a high school instructor, two terms on a high school governing board, and nearly 15 years as Executive Director of the California Agricultural Teachers' Association, I am well aware of the many and varied points of view regarding educational policy and practice in California. I intend to diligently and thoroughly review issues that come before the Board, and hope to help shape policy and regulations that encompass more broadly the interests of all students.

I believe that there is a need to examine, in a truthful and honest manner, the real-world outcomes that are occurring as a result of our current educational practices. I hope to engage in meaningful dialog about how effectively we are in meeting the needs of all students, and hope to play a positive role in developing curriculum and programs that are engaging and relevant to students.

2. From time to time, relations between the Board and education stakeholders have been tense. What can be done to improve communication and collaboration between the Board and the Legislature, parents, education organizations, and other advocates on significant education policy issues?

I find it troubling that we do not have a well-defined process of meeting regularly with Legislative leadership, with members of the Education Committees, with members of the Education Coalition, and other stakeholders who are engaged in very fundamental discussions of education policy development. During our Board retreat in February, I noted that there was a decided lack of engagement with legislators, education organizations, and others that really limited our ability to understand the perspectives of those parties. I believe that the Board needs to establish more liaison relationships with these stakeholder groups.

3. What is the best way for you, as a Board member, to communicate with the Legislature about issues of concern?

Recognizing that the Board does not usually take positions on pending legislation, I still think it is extremely important for Board members to engage staff and Legislators whenever there are substantive questions about the impact of pending policy considerations. The best way to accomplish that goal is to simply devote the time necessary to build those relationships. I intend to maintain the relationships that I have with members of the Education Committees, their staff, and others within the Capitol. I appreciate and understand that is important to represent my perspectives and viewpoints as my own, and to ensure that those opinions are not viewed as representative of the Board as a whole. The more important point is that we, as Board members, need to listen to and understand the perspectives of others, and I believe that direct and open communication with members of the Legislature will help provide that input.

Senate Rules Committee

MAY 07 2007

Appointments

4. Please describe any orientations or briefing you have received as a new Board member. Who assists you in understanding the often complex issues before the Board?

My first Board meeting occurred three working days after my appointment to the Board. In my case, there wasn't a lot of time to conduct a meaningful orientation activity. To their credit, Board staff worked diligently to respond to my questions. Shortly after my first meeting, I had an opportunity to meet with staff and was provided with a Board handbook, which contained useful information. The two-day retreat conducted by the Board in February was also very beneficial.

In terms of dealing with the many complex issues that have come before the Board, both CDE staff and Board staff have been very helpful in assisting members of the Board by providing updates and briefings as part of the background material sent to Board members prior to meetings. We have operational subcommittees that enable members of the Board to develop expertise in areas of particular interest, and it has been very helpful in having those members share their background and knowledge during Board discussions as well.

5. Under the Board's waiver authority, it has the ability to approve charters that have been denied at the local level, as well as the ability to approve statewide charters if they are deemed to be of "statewide benefit". Under what parameters should a charter denied at the local level be approved by the state? What constitutes a "statewide benefit" charter?

Under certain circumstances, charters denied at the local level may be approved at the state level, provided there is a compelling need demonstrated that would benefit the educational program available to students in that area, and when the charter applicant is able to demonstrate, through a review process involving CDE staff, the ability to meet the needs of those students. In those cases, it may be appropriate to grant approval to those charters, provided they are able to meet the established criteria contained in the law.

In the case of "statewide benefit" charters, I believe that there are very narrow circumstances under which such charters should be approved. In my opinion, the intent of the "statewide benefit" designation was to recognize only those entities that could provide educational benefits of statewide importance in a very unique and compelling manner – and only in those instances wherein no locally-approved charter could provide those services. We have had only one application for "statewide benefit" status during my tenure on the Board, and I vote to deny application of that charter because I did not feel that the applicant was providing service that was compellingly unique.

The Achievement Gap

6. In addition to increasing the API Growth targets for subgroups, how has the Board made narrowing the achievement gap a priority?

The Board has included, within the curriculum and instructional frameworks for materials in mathematics and language arts, additional remediation and intervention programs for students that require additional support to keep pace with their peers. The Board has also focused attention on two subgroups, special education and English language learners, by adding these subgroups to the API calculation. Hopefully, these actions will result in appropriate and supportive assistance for students that are particularly vulnerable.

7. Should the Board take further steps to address the achievement gap?

Yes, the Board should certainly continue to work with the legislature, state education leaders, teacher preparation institutions, and others to address this persistent problem. We also must address the fact that in many cases, the achievement gap is a direct result of an “opportunity gap” – a lack of opportunity for students in low-income areas to access the same level of teaching experience and performance, counseling services, and other educational services that are more uniformly present in more affluent areas and districts. There is a growing awareness of the need to engage teachers, parents, community leaders, and others to address this issue as well. The Board should encourage and participate in efforts to ensure that all students are given the instructional support needed to achieve academically.

8. There is a considerable discrepancy between the graduation rate reported by the Department of Education and the numbers put forth by other groups. Why are they so different? Which numbers do you believe are correct?

Historically, CDE tended to report “dropout” rates that were virtually meaningless, due to archaic formulas and local district actions that essentially disguised student movement within the school system. Within the past several years, attention has been focused more appropriately on the number of students who actually graduate from high school, compared to the number of students who had been part of that incoming 9th grade class. When examined in that context, the state-wide graduation rate has been reported to be approximately 70%, which more accurately reflects true student persistence.

Within the past few months, UCLA has released figures that indicate that the graduation rate may be closer to 60% state-wide, when factored and corrected for increases in population and other demographic influences. Given the methodology of their analysis, I believe that the true graduation rate may in fact be closer to 60% than 70%. In either case, the numbers are unacceptable.

9. What new policies should be considered, if any, to improve high school graduation rates?

There is increasing awareness that students are leaving high school not because they are failing, but because they see no relevance between the content of the curriculum in their schools and real-life applications of that educational focus. This lack of relevancy and meaning won't be addressed by doing more of what doesn't work – it will only be addressed by imparting knowledge and skills to students in a way that is relevant and meaningful.

We need to explore expanding opportunities for students to engage in learning processes that allow for real-world application of academic knowledge and skills, whether in career technical education programs, or in other integrated settings. Particular attention should be paid to making those opportunities available in middle schools, where we know that many students begin to lose interest in school. We need to reinstate opportunities for students to participate in elective programs in art, music, career technical education, and other programs that engage and interest them. Too many of our students view school as an endless stream of “memorize, test, and forget” activities that simply bear no relevant connection to their future.

No Child Left Behind Act

10. NCLB requires states to demonstrate by 2013-14 that all students meet their state's definition of “academically proficient”. At the Legislature's request, the Board set the bar for California's definition of “academically proficient”. What steps has the Board taken to ensure that our students will reach that goal?

The Board and CDE staff have worked together to provide additional support for schools that have not made the gains necessary to meet their targeted goals. Given the parameters contained in the current NCLB law, we will continue to have additional school districts become eligible for state intervention programs. The Board and CDE leadership continue to examine ways to provide the support and intervention strategies that will result in improved academic performance. The High Priority Schools Grant program and other initiatives aimed at providing technical assistance to struggling schools have been supported by Board action.

11. Schools that do not make their growth targets for two consecutive years are designated program improvement schools. Given that the majority of schools in program improvement are our poorest, and that the recent adequacy studies noted that poverty is the biggest indicator in student achievement, what has the Board done to address the issue of poor students and the achievement gap in the state?

The Board, in response to these studies, has focused more effort on the schools that have been identified as scoring in the lowest two deciles on the API. Additional funds were recently approved for addressing the needs of schools in this category. Because of the Williams settlement and the recent agreement on education funding, the Board will be authorizing additional resources over the next several years aimed at improving the performance of schools struggling with providing adequate facilities, materials, and experienced teachers. As noted previously, this "opportunity gap" will require ongoing efforts by the legislature, parents, state education leaders, the Board, and others to ensure that adequate and targeted resources are available to fully meet the needs of all schools and students in California.

12. As Congress prepares to reauthorize NCLB this year, there has been increased attention on English language learners. The federal Department of Education has begun a partnership with states and other organizations on assessment options for English language learners. Is California participating in that discussion?

Yes, there are ongoing conversations with DOE regarding accountability and assessment issues for ELL and other subgroups.

California High School Exit Exam

13. Over the past few months, the Board has heard extensive discussion on options for students with disabilities who are unable to pass the exit exam. What alternative proposals do you find plausible? What course of action would you recommend?

Pending litigation and possible consideration of a settlement proposal in the immediate future creates severe limitations regarding response to this question. It is my sincere hope that agreement between all parties can be reached that will result in a workable and positive solution.

14. Should the Board increase school district accountability for students at risk of failing the exit exam? If so, how?

The Board, and all other education policy leaders, should continue to work on strategies to improve student performance on the CAHSEE. Currently, we need to ensure that adequate resources are available that enable districts to increase the number of students that successfully pass the exam, and provide meaningful incentives that encourage effective actions.

English Learners

15. Is the Board acting to expedite the learning and reclassification of English learners? What more can be done?

Yes. The Board has responded to the need to provide additional resources, including new intervention programs and supplemental materials, aimed at improving vocabulary and writing instruction. Development of new criteria used to evaluate the effectiveness of English learner support materials and struggling reader materials has resulted in improved instruction, and is available for teachers and schools to use as needed.

We must continue to examine ways to improve the learning and appropriate reclassification of English learners in a way that is educationally sound, and which allows reclassified students to succeed long-term. The development of guidelines for districts to follow has been completed, and we need to ensure that those guidelines are effectively and appropriately applied.

16. The state's Reading language Arts and English Language Development framework is sometimes criticized for having been designed in a manner that does not ensure that a student will achieve sufficient proficiency in English to meet academic standards and pass the California High School Exit Exam. How do you respond to this criticism? What, if any, changes would you recommend to ensure each student has the instructional materials necessary to attain reading and English proficiency?

To the extent that the content standards are aligned to both the frameworks and CAHSEE, the first point may not be as valid as the second. The bigger issue, beyond framework design, is whether all of the instructional support, professional development, and supplemental support programs are adequately provided in a manner that's effective. This is one area of education that the Board needs to continue to work on to ensure that the best available instructional materials, as well as the most effective instructional practices, are used for English and reading development. Again, it would seem that bridging the "opportunity gap" that currently exists in providing student access to effective instructional support and teaching across district boundaries needs to be our primary focus.

CALIFORNIA LEGISLATURE

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SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

April 16, 2007

Ruth Bloom

Dear Ms. Bloom:

As you know, the Senate Rules Committee will conduct a confirmation hearing on your reappointment as a member of the State Board of Education on Wednesday, May 16, 2007. We request that you appear. The meeting will begin at 1:30 p.m. in Room 113 of the State Capitol.

We have prepared the following questions to which we would appreciate your written responses. Please provide your responses by May 7th.

Goals, Roles, and Responsibilities

The State Board of Education is responsible for setting policy and adopting rules and regulations for governing standards, curriculum, instructional materials, assessment, and accountability. The board is also responsible for approving waivers of certain provisions of the Education Code, reviewing district reorganization plans, implementing federal programs, and adopting regulations to implement legislation. Some of these duties overlap with those of the superintendent of public instruction.

1. *What were your most significant accomplishments during your first term as a member of the State Board of Education? What do you hope to accomplish during your second term?*
2. *The board does not take positions on pending legislation. In your opinion, what is the best way for you, as a board member, to communicate with the Legislature about issues of concern?*

3. *From time to time, relations between the board and education stakeholders have been tense. What have you done to improve communication and collaboration between the board and the Legislature, education organizations, and parents and other advocates on significant education policy issues?*
4. *Under the board's waiver authority, it has the ability to approve charters that have been denied at the local level, as well as the ability to approve statewide charters if they are deemed to be of "statewide benefit." Under what parameters should a charter denied at the local level be approved by the state? Also, in your opinion, what constitutes "statewide benefit"?*

The Achievement Gap

The Legislature, the superintendent of public instruction, and members of the public testifying at board meetings have all expressed strong support for the view that the board's top priority should be addressing the achievement gap in California.

While schools are showing progress academically and overall scores on the academic performance index (API) are steadily rising, there are significant gaps among student subgroups. Students who are Hispanic, African American, English learners, economically disadvantaged, or have a disability continue to trail their White or Asian peers. While the average statewide API score in 2006 was 721, African American students had an average score of 635, Latino students averaged 656, English learners averaged 637, economically disadvantaged students averaged 654, and students with disabilities had an average score of 518. Graduation rates show the same disparity. For the 2005-06 school year, White and Asian students' graduation rates were 77 percent and 81 percent respectively. For African American students the graduation rate was 56 percent and for Latino students it was 60 percent.

In an effort to close the achievement gap, the recently passed Quality Education Investment Act will provide nearly \$3 billion over seven years to schools that performed poorly on the 2005 API. The money must be used to lower class sizes, hire new staff and counselors, and provide training for principals and teachers. The state board recently increased the API growth targets for underperforming subgroups.

5. *In addition to increasing the API growth targets for subgroups, how has the board made narrowing the achievement gap a priority?*
6. *Should the board take further steps to address the achievement gap?*
7. *There is a considerable discrepancy between the graduation rate reported by the Department of Education and the numbers put forth by other groups. Why are they so different? Which numbers do you believe are correct?*

8. *What new policies should be considered, if any, to improve high school graduation rates?*

No Child Left Behind Act

The federal No Child Left Behind Act (NCLB) requires integration of the state and federal accountability systems. Specifically, federal law requires the state to define student proficiency according to standards-aligned assessments, ensure that all schools make adequate yearly progress toward defined proficiency levels, and intervene with or sanction schools that do not make adequate yearly progress. This is in contrast to California's academic accountability system that annually calculates an academic performance index for all California public schools, including charter schools, and publishes school rankings based on them.

California has been granted additional flexibility under NCLB guidelines for students with disabilities. However, California has yet to receive additional latitude for the performance on reading language arts and mathematics assessments of English learners. The California Department of Education argues that, because of California's cultural and linguistic diversity, the state will have difficulty conforming to the requirements of NCLB.

9. *NCLB requires states to demonstrate by 2013-14 that all students meet their state's definition of "academically proficient." At the Legislature's request, the board set the bar for California's definition of "academically proficient." What steps has the board taken to ensure that our students will reach that goal?*
10. *Schools that do not make their growth targets for two consecutive years are designated program improvement schools. Given that the majority of schools in program improvement are our poorest, and that the recent adequacy studies noted that poverty is the biggest indicator in student achievement, what has the board done to address the issue of poor students and the achievement gap in the state?*
11. *As Congress prepares to reauthorize NCLB this year, there has been increased attention on English language learners. The federal Department of Education has begun a partnership with states and other organizations on assessment options for English language learners. Is California participating in that discussion?*

California High School Exit Exam

Since the 2005-06 school year, all students, excluding students with disabilities, receiving a public high school diploma must pass the California High School Exit Exam.

The board is scheduled to make recommendations to the Legislature by June 1, 2007, on courses of action for students with disabilities.

While the statewide exam passage rate is just over 90 percent, the passage rate for poor and minority students is much lower—84 percent for African American students, 76 percent for English learners, and 86 percent for economically disadvantaged students.

12. *Over the last few months, the board has heard extensive discussion on options for students with disabilities who are unable to pass the exit exam. What alternative proposals do you find plausible? What course of action would you recommend?*
13. *Should the board increase school district accountability for students at risk of failing the exit exam? If so, how?*

English Learners

The California Department of Education reports that approximately 25 percent of California's K-12 students—about 1.6 million—are English learners. They perform at substantially lower levels on standardized tests than English-proficient students. In addition, test results from the high school exit exam indicate that English learners performed 33 percent lower than the state's overall passing rate on the English-language arts exam, and 24 percent lower than the state's passing rate on the mathematics exam.

California's success in meeting the needs of English learners is mixed. English learners are making gains in achieving their English proficiency. However, many students remain classified as English learners even after many years of education in the United States.

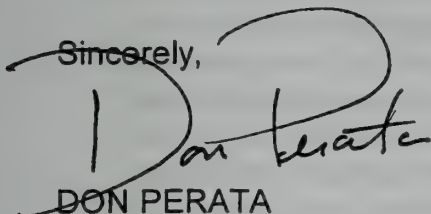
14. *Is the board acting to expedite the learning and reclassification of English learners? What more can be done?*
15. *The state's Reading Language Arts and English Language Development framework is sometimes criticized for having been designed in a manner that does not ensure that a student will achieve sufficient proficiency in English to meet academic standards and pass the California High School Exit Exam. How do you respond to this criticism? What, if any, changes would you recommend to ensure each student has the instructional materials necessary to attain reading and English proficiency?*

Ruth Bloom
April 16, 2007
Page 5

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments
Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Perata". The signature is written in a cursive style with a large, looping initial "D".

DON PERATA

DP:LR

GOALS, ROLES, AND RESPONSIBILITIES

I believe that I have cast intelligent votes. I have spent a great deal of time preparing for each meeting and have carefully listened to each staff or public person that has appeared before the board. I have voted for the Career Tech Framework and believe that the renewed focus on other paths for students have been successfully and thoughtfully been included. This renewed interest in careers offers students a varied and more successful future. I hope that in the next term I will be able to continue to focus on narrowing the achievement gap and supporting the standards based system that is now an integral part of California's education system. I have been a supporter of more coordination between teacher training institutions and the public school system. I know that many teachers will be retiring in the next five years and that we need to promote solid teaching skills so that when they do retire, even better teachers will take their place.

NCLB has been both a boon and a difficult program for California and other states. While I may not agree with all of the ways in which it affects schools, I do believe the emphasis on making sure that students in our system are on an equal footing with equal classrooms and quality teachers is a goal to strive for, I know that in actuality it has been very difficult for districts to follow. I will continue to listen to districts and work with all parties to make sure that every child succeeds to the best of his or her ability.

Legislation issues. I believe that the legislature and the board of education must develop a relationship that works for the children of our state. I do not think that we are on opposite sides on issues; I think that we are just unable to express our concerns in a legitimate manner. It might be a positive thing if a committee of a few board members should meet regularly during the legislative sessions to discuss areas of interest or concerns. However, since we meet every other month and get updated by CDE at those meetings, it is difficult to feel we understand the legislature and the public's concerns on specific issues. As a volunteer Board, it would serve the best interests of students if we could take time to meet during those days when we are in Sacramento. Our executive director and staff could and should be kept more in the loop by legislative staff and send us emails on pending issues. I believe that it is good policy for Board members to have positive relations with members of the legislature.

Relations between the Board and education stakeholders. I believe that one of my personal strengths is to work with groups to alleviate tense situations. I am always available to speak with parents and other concerned stakeholders about issues of concern and have had many meetings with educational organizations about specific issues. On the Board level because of my training in group dynamics and knowledge of Robert's Rules of Order, I have been able to diffuse many trying discussions. I believe that giving time and respect to differing viewpoints is an absolute imperative in order to do the work of the Board. I think that if organizations write letters or present at the Board that we must hear them and read their missives. We are never going to always agree on every issue, but I think with a respectful hearing that people and the groups they represent will be able to leave a meeting knowing that their views are valued.

Senate Rules Committee

MAY 18 2007

Appointments

Charters. The state Board has been given by legislation the opportunity to hear appeals by local charters that have been denied by districts. This is a grave responsibility that has strict parameters and must consider the issue of local control. There are five areas that a charter must fulfill in order to become a charter. However, because local districts have severe financial problems (or overcrowding, etc.) many have decided to deny all charters, even if they have met those requirements. Using significant information provided by the CDE and the Charter school committee, the Board makes decisions that may go against local districts and make those schools, state charters. The most important question I ask myself during these hearings is, "what is best for the students?"

Going against a local decision takes extreme fortitude and understanding. If the charter is being denied based only on a policy of no more charters and fits the parameters of state law, then I am comfortable making that decision. It is not an easy decision to make not only because of local control issues but I also worry that the CDE charter section can get overloaded and not be able to do the proper oversight. Each time we have made such a decision, I have checked with staff that they are able to do that oversight.

Statewide benefit charters are a different issue. I read the intent of the legislation is that these schools will, through their charter, be beneficial to not just their students, but be a model for other schools and students throughout our state. These petitioners must have a solid track record of demonstrated success with their given student population prior to being granted a charter. They must show strong academic performance working with students in areas of high need or difficult to serve students. They must have a plan to expand that success into other similar communities throughout California. The other area in which state-wide benefit charters should be granted is that it provides a unique service or program to the state beyond its' own community. This can be done by training teachers beyond their staff, providing a different method of educational delivery, be a training site for administrators in the surrounding districts, or a s many other creative ways that charters and their founders design. The Board has only approved two statewide charters, Aspire and High Tech High.

I do believe that the Board has been totally circumspect in its' responsibility for approving statewide benefit charters. This is not a responsibility taken lightly. California is a leader in the charter school movement and other states and school districts can learn much from these models.

RUTH BLOOM

THE ACHIEVEMENT GAP

The board has taken a series of steps to focus on narrowing the achievement gap. We have increased the growth target for subgroups, and added two new subgroups to the API calculation, special education and English language learners. This change will help districts to focus direct attention on these difficult to serve subgroups.

The Board has also included additional remediation and intervention programs for students in need of additional support. I have been very clear that these new supplemental programs must show demonstrated success. These are not opportunities for private or public enterprise, I am particularly pleased that the proposed settlement of the Valenzuela lawsuit is moving toward a settlement that will allow students who fail the high school exit exam to have two years following graduation of their class to study and demonstrate their abilities by passing the exam. The Board has recently approved a series of service providers to help give remediation to students who are not passing CAHSEE.

The discrepancy between the graduation rate reported by the CDE and the numbers put forth by other groups are different because they are based on differing purposes: first is required for NCLB and second is the cumulative ninth grade through high school graduation rate. The NCLB graduation rate, which has recently been reported as 85% is overstated at the state level because it does not fully account for differences between ninth grade enrollment and graduates and dropouts. California still does not have a fully funded longitudinal student database and data system that tracks each student throughout the state, no matter where he or she is enrolled. The CDE also calculates a statewide graduation rate beginning at the ninth grade, which has recently been reported as 71%. This is an estimate that is reasonable but cannot be used at the school level because it does not account for increasing or declining enrollment during the high school grades. Having a statewide system to track individual enrollment would aid in a more reasonable statewide figure. This should be a top priority, which will better enable the state to accurately calculate and track student graduation rates. The Board has recently approved a set of codes that school districts must utilize to account for the absence of students previously enrolled in the district. We believe that by accounting for every student with an identifier and requiring districts to use the absence codes to explain what happened to students who are not attending will provide the Board with meaningful information. Accurate graduation rates and the whereabouts of students who do not graduate will be the hopeful outcome.

RUTH BLOOM

NO CHILD LEFT BEHIND ACT

The steps that the Board have taken to ensure that our students reach the academically proficient level has been the following: The Board has just approved a new cohort of schools to participate in the state's High Priority Schools Grant program. This program provides funding and support for unsuccessful schools that have not been making academic progress. This new funding comes with direct and intensive technical assistance, which provides the ability for schools to develop a plan for academic improvement and the support to implement that plan. The Board is in the process of approving a new set of supplemental service providers to provide additional tutoring and support to students in program improvement schools. I will continue my role at the Board level to make sure that these are providers who have had proven successes.

The Board recognizes that the majority of schools in program improvement are our poorest. In the first meetings of this year, the Board has approved an additional \$100 million in funding for assistance to a new cohort of schools that are in the lowest twenty percent of the state's Academic Performance Index. Additionally, the Board is preparing to authorize the \$2.7 billion settlement agreement between the Governor and the CTA to reduce class-size, focus resources on instructional improvement, and improve teacher quality and preparation in California's lowest performing schools. The Board also continues to oversee the Williams lawsuit settlement that requires that California's poorest schools have sufficient instructional materials, qualified teachers and adequate classrooms.

The Board has an on-going conversation with the federal Department of Education on assessment and accountability matters for English language learners and for our other subgroups in our student population. California is out of compliance with Title III of NCLB because our current test, the CELDT, does not provide an assessment of students' reading and writing skills in K1. There is an on-going challenge in our conversation with the federal government. The question of what assessment should be provided for newly arrived students is a difficult one. We in California have been focused on ensuring that all students have the best opportunity to learn English and that state-wide assessments should be used to measure schools' progress toward that goal. We do provide a native language test for Spanish-speaking students to be administered in addition to the general English language tests but do not have such tests for the many, many other languages spoken in our state.

RUTH BLOOM

CALIFORNIA HIGH SCHOOL EXIT EXAM

The Board is in the ending phase of settling the litigation over students with disabilities who are unable to pass the exit exam. I cannot, under advise of counsel, answer this question at this time.

All of the entities that are involved with education in California are continuing to look at ways to improve student performance on the CAHSEE. This means providing school districts with the tools and incentives to help ensure that each student has the best opportunity and materials to pass the exam. We have r recently approved another supplemental instructional program for students who have not passed with the opportunity to use on-line and remote access components. We need to continue to identify even earlier those students at risk of failing the CAHSEE so remediation can begin earlier in a student's high school career. We cannot simply pass students from grade to grade and expect them to succeed at this exam.

RUTH BLOOM

ENGLISH LEARNERS

The Board is continuing to look for ways to improve the learning and reclassification of English learners. We have been improving the state's instructional materials based on experience from the field and research on reading and language acquisition. As a former teacher of ELLs and a visitor to many programs for ELLs, I believe that the successes have to be shared between schools, districts and teachers. It is possible, even in low performing schools, to teach and reclassify English learners. I think because of the scale of our state, many of those exemplary programs do not get highlighted. The Reading/Language Arts Framework and Evaluation Criteria now offers two new intervention programs; intensive vocabulary support and Grades 1-3 intervention for teachers and schools to use as needed. Our new materials will make improvements in the criteria for the English learner support materials. We will offer an option for districts to purchase a program that has an additional hour of daily instructional material for English Language Development that ties to both content standards and English language development standards. It is important that the Board continue its focus on reclassifying English learners who have become proficient. We have adopted guidelines for school districts to use for reclassification. We should figure out a way to make it an incentive to reclassify, not to keep students and the money that follows them, in programs that have succeeded. We should involve parents and communities in the effort to bring students up to proficient levels. Providing classes in English for parents, programs for preschoolers to learn and listen to English are just a few of the myriad ways that English learners can advance.

CAHSEE is a test that is directly aligned to the same content standards of the Reading Language Arts framework. All of our students must be able to fully access our educational programs. We, by state standards, follow a standards based curriculum. All of our instructional materials and assessments are aligned; we must test what students are taught. With that said, it is also important to constantly provide the best trained teachers so that students can access the state's reading/language arts content. Our expert panels used to examine new materials must make sure that new instructional materials incorporate new specifically targeted intervention and supplemental support programs that are in the most recent reading/language arts framework. It is our responsibility to continue to provide the best instructional strategies for English and reading development in these materials. We need to develop new criteria for teacher professional development so that teachers have the tools and the materials to ensure that English language learners are succeeding. This is a perfect time in our state in a sense; we will have a huge turnover of teachers, so why not train the new teachers in the best way possible to teach the skills our students need to succeed? A coordination between teacher training institutions, the CDE and the Board on best practices is a goal I have for the next term.

RUTH BLOOM

Andrew Estep.....GOALS

Good Morning Mr. Chairman, Distinguished Members of the California State Rules Committee, Honored Guests, and Colleagues of the Board of Education:

As a child, I entertained farfetched dreams of political greatness. As a child, I dreamt of representing millions. As a child, I dreamt of making a difference. And at 16 years old, and still just a child, I did just that. Only in California, in our prosperous and thriving state, could I have accomplished such a seemingly illusive dream. This dream, this responsibility, has been my tenure on the California State Board of Education, serving as the direct representative of the over six million students in our state. Throughout this experience, I have been immersed in the policy-making body of our education system. In doing so, I have moved to further the voice of the constituents, or, rather the customers of this education system. And what an honor it has been. I wholeheartedly commend the California Board of Education for creating and upholding the student member position. The creation of such a position is not only the democratic, but the right thing to do. This position has allowed me to further a personal mission to encourage students to take a stand in their education through the use of a statewide program called the Student Advisory Board on Education (SABE). This is a program sponsored by the California Association of Student Councils that takes place every year in November. Students from all over the state assemble to create educational proposals to present to the State Board. I have localized this program, encouraging students all over the state to entertain meaningful dialogues on the triumphs and issues of their local education system, create proposals on ameliorating such concerns, and present these proposals to their local school boards. My clout as a member of the State Board has truly furthered the success of this program. I would like to thank all of the decision makers of our great state for allowing a student voice on the State Board of Education. California is truly leading the pack in education reform, specifically by allowing a student to represent his peers in key educational decision-making. It has been the greatest experience of my life serving in such an influential position with such esteemed colleagues, and especially those who are here with me today: Ms. Ruth Bloom, Mr. David Lopez, and Mr. James Aschwanden. I feel truly honored to be in the presence of such brilliant educational leaders and I commend the Governor for appointing such highly qualified individuals to the State Board of Education. Thank you again, members of the Rules Committee, Mr. Chairman, for moving to further democracy, by allowing me, a kid from a blue-collar with a dream, to sit on the most motivated and influential Board of Education in our nation. By projecting my one voice, you have allowed six million to be heard.

Thank you

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1. What do you hope to accomplish as a member of the State Board of Education?

I hope to cast votes based on the best available data and information possible. My objective is to review the evidence, understand the situation and cast a vote that benefits the children who study in our schools and the parents who entrust us everyday with their children. I hope to promote academic achievement, respect for all people and commitment to truth and to help our youth become productive citizens.

2. From time to time, relations between the Board and education stakeholders have been tense. What can be done to improve communication and collaboration between the State Board and the Legislature, parents, education organizations, and other advocates on significant education policy issues?

An essential ingredient in the process of improving relations is the ability to listen and reach out to others. Throughout my professional career and personal life I have strived to work with others especially in difficult times. We may not always agree on an issue or a situation, but it is extremely important to listen, express opinions and ideas and work to reach a compromise and/or solution to any problem or challenge. Effective communication and reaching out to others has been an area of strength for me throughout my professional career.

3. The Board does not take positions on pending legislation. In your opinion, what is the best way for you, as a Board member, to communicate with the Legislature about issues of concern?

The best way for me to get involved is to work with legislators and legislative staff directly and encourage our Board staff to communicate as often as possible. I have established positive relations with many members of the legislature and I believe it is essential for Board members to continue to foster good relations with the policy-makers in the legislature.

4. Please describe any orientations or briefings you have received as a new Board member. Who assists you in understanding the often complex issues before the Board?

Board members receive a brief orientation by staff when they are first appointed to the Board. Beyond that, the board staff help to inform Board members on issues when we have questions on particular issues. Additionally, having worked in education for a significant number of years, I have a network of colleagues who I rely on for advice on certain matters.

Senate Rules Committee

MAY 14 2007

Appointments

5. Under the Board's waiver authority, it has the ability to approve charters that have been denied at the local level, as well as the ability to approve statewide charters if they are deemed to be of "statewide benefit." Under what parameters should a charter denied at the local level be approved by the state? Also, in your opinion, what constitutes a "statewide benefit?"

The current law provides fairly specific parameters under which a charter should be approved at the state level. When a charter is denied by a school district, the county and ultimately the state should not consider the charter as an appeal. Instead, the county and state should review the charter petition on its individual merits and determine if it meets the 16 criteria enumerated in the state law. In addition, the Board imposes additional criteria and conditions on the charters considered for approval at the state level. This is to ensure that the charter schools that are approved at the state level are of highest quality. The California Department of Education (CDE) does an extensive review, using its 20-page review rubric, to ensure that all of the legal conditions and the state's additional conditions are met before making a recommendation to the Board regarding the charter. The Board then reviews and acts upon the CDE's recommendations.

A charter of state-wide benefit could present one of two strong cases to the Board for consideration. As a threshold matter, the charter petitioners should have a solid track-record of demonstrated success with their given student population prior to being granted a charter. The first type of program that may constitute a state-wide benefit is one that has shown strong academic performance working with students in high need areas, such as a population of students that is high poverty and/or English Language Learners. This type of charter school desiring to replicate and expand beyond its current local school district into other similar high needs areas could be a candidate for a state-wide benefit. It has shown continued academic success with a difficult-to-serve student population and has a plan to expand that success into other similar communities throughout the state. In short, this charter program is helping the state improve academic performance of its highest needs students.

The other type of program that may constitute a state-wide benefit is one that has shown, in addition to strong academic performance, a unique service or program. For example, when I was appointed to the Board I learned that High Tech High charter school was determined to be of a state wide benefit. Its teacher induction program that it plans to grow across its state-wide network of charters is helping to provide a common network of highly qualified and well-trained teachers for all of its schools.

The Achievement Gap

6. In addition to increasing the API growth targets for subgroups, how has the Board made narrowing the achievement gap a priority?

The Board has taken a series of steps in recent years to focus on narrowing the achievement gap. In addition to increasing the growth targets for subgroups, the Board has also recently added two new subgroups to the API calculation – special education and English language learners. This change will focus school districts and direct their attention to these subgroups that have traditionally not been well served.

The Board has also included in its recent curriculum and instructional frameworks for instructional materials in both reading/language arts and mathematics additional remediation and intervention programs for students in need of additional support. Specifically, the new reading/language arts instructional materials must include supplemental materials for both English learners and for native English speaking students who are struggling readers. The Board believes that one of the best ways to combat the achievement gap is to ensure that elementary school and middle school students are receiving the fundamental educational skills essential for future academic success.

7. Should the Board take further steps to address the achievement gap?

Yes, all of the state's education policy makers should continue to focus on closing the achievement gap. While we have made progress, there is still work to be done. The latest California High School Exit Examination (CAHSEE) passing rates show that a persistent gap continues to exist for our economically disadvantaged students, English language learners, and certain racial and ethnic subgroups. The Board has recently approved a series of service providers to help give remediation to students who are not passing the high school exit exam. The state should continue to focus its efforts to ensure that all students, especially these lower performing students, are given the instructional support needed to achieve academic success.

8. There is a considerable discrepancy between the graduation rate reported by the Department of Education and the numbers put forth by other groups. Why are they so different? Which numbers do you believe are correct?

CDE reports state-level graduation rates for two separate purposes: first is required for purposes of No Child Left Behind (NCLB), and more recently the cumulative ninth grade through high school graduation rate.

The NCLB graduation rate, which has recently been reported as 85% is somewhat overstated at the state level because it does not fully account

for differences between ninth grade enrollment and graduates and dropouts. The CDE also calculates a state-wide graduation rate beginning at the ninth grade, which has recently been reported as 71%. Groups other than the CDE may also include different variables in their respective graduation rate calculations. The CDE state-wide rate of approximately 70% is generally thought to be a reasonable state-wide figure. This area of graduation rates needs to be analyzed much more carefully. Certainly we must utilize the most scientific methodology and technology in order to collect accurate tracking data and more importantly use these data to determine and identify reasons why students aren't graduating at the rates desirable for a healthy and economically sound society.

9. What new policies should be considered, if any, to improve high school graduation rates?

There are two important facets to this question – improving calculation of the graduation rate and improving the rate of high school graduation. For the first, the calculated graduation rate currently depends on data collected by the CDE. Unfortunately, there will continue to be limitations to this data, partly as a function of it being self-reported, until California has a fully funded longitudinal student database and data system. Until then, it will continue to be difficult to accurately determine California's graduation rate. The Board believes that top priority should be given implementing the pupil data system, the California Longitudinal Pupil Assessment Data System (CALPADS), which will better enable us to accurately calculate and track student graduation rates.

In addition, the SBE recently approved a set of codes that school districts must utilize to account for the absence of students previously enrolled in the district. Beginning in fall 2006, districts were required to account for every student by using students' unique identifiers for attendance counting (that leads directly to district funding levels). We anticipate that by accounting for every student by identifier and requiring districts to use the absence codes to explain what happened to students who are not attending, the CDE will be better able to provide the SBE with meaningful information that includes accurate graduation rates and what's happening to students who don't graduate.

The other question involves improving the rate of high school graduation. The Board believes that several policy approaches should be considered in an effort to increase the number of students graduating. The state should work to ensure that students at the upper elementary school and middle school grades are progressing and have the support they need to succeed academically. We should also work diligently to involve the parents as partners in the educational process and create support programs for them. Research suggests that students who drop out of high

school are pre-disposed to drop-out by the time they reach high school. We should work to identify these students early and provide them and their parents with the support to help them stay in school. Secondly, we should explore and implement data systems to better track high school students to prevent them from "falling through the cracks." This is particularly relevant for children of highly mobile, migrant families, low socio-economic and English language Learners.

No Child Left Behind Act

10. NCLB requires states to demonstrate by 2013-14 that all students meet their state's definition of "academically proficient." At the Legislature's request, the Board set the bar for California's definition of "academically proficient." What steps has the Board taken to ensure that our students will reach that goal?

The Board has just approved a new cohort of schools to participate in the state's High Priority Schools Grant program. This program provides funding and support for those schools that have been unsuccessful in making academic progress, as identified on the API. This funding comes with direct and intensive technical assistance, to help schools develop a plan for academic improvement and the support to implement that plan. This is a multi-year endeavor designed to help improve student performance.

With respect specifically to NCLB, the Board has worked to implement the provisions of NCLB to help give additional support to students in schools that are in program improvement. The Board, with the assistance of the CDE, is in the process of approving a new set of supplemental service providers to help provide additional tutoring and support to students in program improvement schools. Additionally, this coming fall several school districts that have been targeted for program improvement will be eligible for state intervention. The Board and the CDE are looking into ways to best support and intervene in these school districts that are failing to make their targets for their student populations.

11. Schools that do not make their growth targets for two consecutive years are designated program improvement schools. Given that the majority of schools in program improvement are our poorest, and that the recent adequacy studies noted that poverty is the biggest indicator in student achievement, what has the Board done to address the issue of poor students and the achievement gap in the state?

Given the close correlation between poverty and academic performance, the Board has focused its recent efforts on intervention and school improvement on those schools that are California's lowest performing. For

example, the funding for California's state level intervention programs has been focused on those schools scoring in the lowest twenty percent on the state's Academic Performance Index (API). In March and May of 2007, the Board just approved an additional \$100 million in funding for assistance to a new cohort of schools in this category. Additionally, through the settlement agreement between the Governor and the California Teachers' Association (CTA), the Board is preparing to authorize funding of \$2.7 billion over the next seven years, to reduce class-size, focus resources on instructional improvement, and improve teacher quality and preparation in California's lowest performing schools. We must continue to seek out, identify and promote schools that are demonstrating success with this profile of student. These schools can help identify best processes and practices that can be disseminated and implemented across the state. Lastly, the Board continues to oversee portions of the *Williams* lawsuit settlement that requires that California's poorest schools have sufficient instructional materials, adequate classroom facilities, and qualified teachers.

12. As Congress prepares to reauthorize NCLB this year, there has been increased attention on English language learners. The federal Department of Education has begun a partnership with states and other organizations on assessment options for English language learners. Is California participating in that discussion?

We have an on-going conversation with the federal Department of Education on assessment and accountability matters for English language learners and for the rest of our subgroups and student population. Last fall, the CDE sent a contingent of staff to the federal government's working summit on English proficiency exams for new arrivals and non-native English speakers, under Title III of the No Child Left Behind Act. As you know, California's focus has been to ensure that all students have the best opportunity to learn English and that the state-wide assessments should be used to measure school and school district progress toward that goal. Regarding the state's Title I assessments for English language learners, we do provide a native language test for Spanish-speaking students to be administered in addition to the general English language tests, but not for any other language-minority group. We need to continue our efforts to better serve this large and growing student population. We must develop English Language development frameworks that utilize the vast amount of expertise and information available in this area coupled with appropriate linguistically and culturally relevant teaching and learning materials.

California High School Exit Exam

13. Over the last few months, the Board has heard extensive discussion on options for students with disabilities who are unable to pass the exit

exam. What alternative proposals do you find plausible? What course of action would you recommend?

Because the Board is in the midst of litigation on this matter and has been asked to consider a settlement proposal by plaintiffs, under advice of counsel I do not believe I should respond to this question at this time.

14. Should the Board increase school district accountability for students at risk of failing the exit exam? If so, how?

The Board, in conjunction with the CDE, the Legislature, and the Governor's office should continue to look at ways to improve student performance on the CAHSEE. This means continuing the focus on the CAHSEE as a threshold for receiving a diploma, and providing school districts with the tools and incentives to help ensure that each student has the best opportunity to learn the material needed to pass the CAHSEE. In recent years, the state has provided up to \$500 or \$600 per high school senior who has yet to successfully meet the CAHSEE requirement. Further, the Board has recently approved another supplemental instructional program, with a significant on-line and remote access component, to provide students with means to learn the content needed to master the CAHSEE and receive a high school diploma. Additionally, we should continue to look at ways to identify earlier those students at risk of failing the CAHSEE so the remediation work can begin in earnest in middle school and earlier in a student's high school career.

English Learners

15. Is the Board acting to expedite the learning and reclassification of English learners? What more can be done?

Yes, the Board continues to look for ways to improve the learning and reclassification of English learners. First, the Board has been improving the state's instructional materials based on experience from the field and research on reading and language arts instruction. For example, the Reading/Language Arts Framework and Evaluation Criteria improved upon vocabulary and writing instruction offered two new intervention programs—intensive vocabulary support and Grades 1-3 intervention for teachers and schools to use flexibly as needed. In addition, the new materials will make improvements in the criteria for the English learner support materials and struggling reader materials. WE will offer an option for districts to purchase a program that has an additional hour of daily instructional material for English Language Development instruction that ties to both the English/Language Arts content standards and the English language development standards. This also can be used flexibly by teachers and schools based on human resources and need.

The Board should support reclassifying English learners who have become proficient in their English fluency. The Board has adopted guidelines for school districts to use for reclassification. While these guidelines are useful, the ultimate decision to reclassify is left to the school districts. The Board, in conjunction with other state-wide policy makers should continue to explore ways to ensure that all students who are ready for reclassification are reclassified as appropriate.

16. The state's Reading Language Arts and English Language Development framework is sometimes criticized for having been designed in a manner that does not ensure that a student will achieve sufficient proficiency in English to meet academic standards and pass the California High School Exit Exam. How do you respond to this criticism? What, if any, changes would you recommend to ensure each student has the instructional materials necessary to attain reading and English proficiency?

In the development of Reading Language Arts and English Language Development frameworks we must utilize the vast amount of expertise and information available in this area. These frameworks need to be supported with the appropriate linguistically and culturally relevant teaching and learning materials. Moreover, in addition to improving English language skills, we should place a much greater emphasis on exposing all students to the academic language needed to successfully succeed in school and eventually compete at national and global levels.

The Board should ensure that we are providing the best resources possible for teachers and students to ensure they are able to fully access the state's reading/language arts content. The Board has attempted to take steps in that direction with the additions of specifically targeted intervention and supplemental support programs for struggling students and English language learners. As publishing companies develop instructional materials based on the new framework components, it will be critical that the Board and its expert panels carefully scrutinize these materials to ensure that we are adopting programs for state-wide use that include the best instructional strategies for English and reading development.

Additionally, the Board should continue to improve the professional development opportunities to support teachers working with students who are learning English and reading. The Board, in partnership with Superintendent O'Connell, is currently developing new criteria for teacher professional development to implement an English learner component of the state's successful Math and Reading Professional Development Program (SB 472). Through this program, the Board will work to ensure that the teachers working with the complex needs

of English language learners have the tools and the materials to ensure those students are learning.

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ANDREW A. ADELMAN, P.E.
GENERAL MANAGER

RAYMOND CHAN
EXECUTIVE OFFICER

April 7, 2007

Ms. Nettie Sabelhouse
Senate Rules Committee
State of California
Via Fax #916-445-0596

Re: Confirmation of Appointment to the California Seismic Safety Commission

Thank you for your consideration of confirmation of my appointment to the California Seismic Safety Commission. According to our conversation of May 3, 2007, I am submitting the following goals for my service as a Commissioner:

1. **Attendance:** Consistently attend and actively participate in the California Seismic Safety Commission meetings.
2. **Reducing Earthquake Loss and Speeding Up Recovery:** Actively contribute to accomplishing the goals of seismic safety awareness, preparedness and timely recovery as established by the California Governor, State Legislators and Seismic Safety Commission. Assist in redirecting the Commission to become more effective and practical in accomplishing the goals of reducing earthquake loss and speeding up the recovery.
3. **Cost-Benefit Analysis of Recommendations:** Carefully evaluate the cost-benefit of the proposed Seismic Safety Commission recommendations and advise to the Governor, Legislators and State agencies to insure that seismic safety as well as economic vitality, job creation and the business climate of California are considered.
4. **Research:** Oversee the use of the Seismic Safety Commission's \$6.7M research fund to ensure that it is used for useful practical research applicable to actual buildings and situations in the State of California. Partner with other state agencies, California universities and industry to identify the most beneficial research areas to develop effective solutions to earthquake safety. Explore opportunities to leverage this fund to obtain other federal or university grants to achieve more with this limited fund.
5. **Seismic Safety of Public Schools, Community Colleges and Universities:** Continue to evaluate seismic safety of public schools, community colleges and universities (both UC and CSU) and make recommendations to the Governor and Legislators about potential modifications of Field Act and other regulations impacting California's children and students. Discussion must include both new and existing (including historic) buildings on the school campuses and must consider financial realities of State's educational institutions and cost-benefit analysis.
6. **Improve outreach to California Public and Industry:** Reach out to the California public and industry to educate them and seek their feedback in order to leverage their knowledge and resources for earthquake awareness, preparedness and recovery in California.

Senate Rules Committee

MAY 08 2007

Appointments

- MAY-7-2007 18:04 FROM: LADBS EXECUTIVE E13 482 6850 TO: 315104450000 000045 115 3
7. **Coordination with other State of California Agencies:** Coordinate Seismic Safety Commission's efforts and policy decisions with other State of California agencies involved with various aspects of earthquakes safety and recovery including but not limited to the Governor's Office of Emergency Services (OES), California Geological Survey (GSC), Division of the State Architect (DSA), Hospital Building Safety Board (HBSB), among others.
 8. **Coordination with Federal Government and FEMA:** Seek advice from the Governor's office on how to best coordinate with federal government agencies particularly FEMA and the Office of Inspector General (OIG) in obtaining and accounting for FEMA grants. Situations such as the ten year old dispute with FEMA and OIG regarding the FEMA's 1994 Northridge earthquake grants (which is still undergoing audit and debate) must be avoided. Seismic Safety Commission should adopt future policies and procedures which are consistent with FEMA rules so that the State can be prepared for FEMA and OIG audits in case of future major earthquakes in California.
 9. **Seismic Instrumentation:** Support seismic instrumentation of certain buildings, such as high-rises, which are funded through the local government permit surcharges and are run by the California Geological Survey (CGS).
 10. **Seismic Safety of High-Rise Buildings:** Develop innovative regulations and standards for seismic safety of tall buildings which establish policies and products to provide short term and long term benefits to the people of California. In Los Angeles alone, currently a record 86 high-rise buildings are proposed to be built with the tallest one being 72 stories tall.
 11. **Learn from Earthquakes:** Carefully study any earthquakes that may occur in California, other states or other countries to learn from them and improve seismic safety in California.

I have a strong desire to contribute to the State of California which has given me so much as my adopted home for the last 32 years. I believe I can contribute to the aforementioned goals of Seismic Safety Commission due to my education and experience which includes:

- Three Engineering Degrees from the University of California, Licenced California Professional Engineer, certified inspector and certified plans examiner.
- Designed large and small residential, commercial and industrial buildings (including nuclear power plants) in California.
- Current manager of the building department of the largest city (Los Angeles) and previous manger of the building department of the third largest city (San Jose) and the fifteenth largest city (Fremont) in California.
- Have overseen the approval of over \$40 Billion dollars of construction and issuances of over 1.5 million permits, including many high-rise buildings, in California.
- Have contributed to many building and earthquake codes and safety improvements at the local, State and national level.

I look forward to your and the Senate Rules Committee's favorable consideration. Please contact me at (213) 482-6800 (work) or (213) 792-6111 (mobile) if I can provide any additional information or be of any assistance.



Andrew A. Adelman, P.E.
General Manager
Department of Building & Safety
City of Los Angeles

May 1, 2007

Nettie Sabelhaus
Rules Committee Appointments Director
State Capitol, Room 420
Sacramento, CA 95814

Dear Ms. Sabelhaus:

Please accept the following responses to the questions propounded to me by Senator Perata and the members of the Senate Rules Committee in conjunction with the May 16th, 2007 confirmation hearing on my appointment to the Court Reporters Board. Also enclosed is an updated Form 700, Statement of Economic Interest.

Goals

1. Please provide us with a brief statement of goals. What do you hope to accomplish during your time on the Court Reporters Board? How will you measure your success?

Response: I really only have one goal for the Court Reporters Board (CRB) and that is to honor the charge given to us by the Legislature, to protect the consumers of court reporting services and products. To that end, there are several things I hope to accomplish during the time I serve on the CRB.

One area of focus is the development and communication of practice standards. As a licensee with a long history of involvement in local, state and national trade associations, I'm well aware of the changing issues that court reporters face. As technology changes, so does everything from the actual practice of court reporting to a myriad of ethical issues. I believe the CRB is perfectly situated to develop standards to protect consumers. These standards will be communicated to the licensees as well as the end users of court reporting services so everyone has a clear understanding of the expectations.

This leads directly into the next area of focus I'd like to work on, outreach to consumers. At the same time we increase our dissemination of information to the licensees, we need to inform the legal community about changes in practice and the role the CRB plays in enforcement should complaints arise.

continued...

Yvonne K. Fenner & Associates
CERTIFIED SHORTHAND REPORTERS

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Senate Rules Committee

MAY 03 2007

Appointments

Position Description and Background

2. These enforcement statistics suggest that a relatively small number of complaints filed result in formal investigations and disciplinary actions. Are most of the complaints filed resolved through some other means? Please explain.

Response: While the short answer to this question is yes, I believe it's important for the Committee to understand why. On the surface, the practice of court reporting is simply the verbatim reporting of everything said in a proceeding. The overarching goal is the protection of the record, the lynchpin to the American justice system. Without an accurate impartial record, there is no accountability.

This concept, the impartial protection of the record, is imparted to students from the beginning of their studies and reinforced throughout their training, resulting in a higher sense of mission. Court reporters are keenly aware that the quality of the work they do directly affects people's lives, from a death penalty appeal to a dissolution of marriage. It is not a responsibility undertaken lightly.

Recognizing the importance of a verbatim record, the Legislature has tasked the CRB with establishing a license exam to ensure entry level competency. Like the Bar exam for attorneys, the CSR exam for court reporters requires hard work and dedication to pass. I know few attorneys who wish to place their license at risk, and the same holds true for court reporters. The mere presence of a threat of CRB enforcement action against a court reporter's license is enough to inspire high standards. Problems are often dealt with on an informal basis with the CRB acting more as a mediator. And just as arbitrations help relieve our burdened court system, CRB intervention helps reduce the number of disciplinary actions necessary.

Pipeline Issues

3. Has the declining number of schools, successful test applicants, and licensees led to a shortage in the profession?

Response: While it is true the number of traditional schools and success test applicants has declined, the actual number of licensees has remained relatively steady for the past several years. This is another area where technology has played a significant role, resulting in the appearance of several on-line instruction programs. Students no longer need to be physically present in a classroom at a school in order to get the training they need.

continued...

Shortages within the state of California are localized and soon balance out. Court reporters move between the courtroom and the freelance arena in response to market demands. The judicial or traditional court reporting field does face competition from an increasing demand for court reporting services from the closed captioning industry as well as realtime translation in a classroom setting for the hearing impaired.

4. *What role, if any, do you believe the board should play in addressing these pipeline issues?*

Response: Recruitment is obviously an important element to any future shortages which may arise. It's important for the CRB to work with the schools and the trade associations to identify and engage the best quality candidates for the profession in order to ensure the California consumer is not denied full access to justice. Shifting the recruitment from clerical to technology, the more appropriate background/area of interest for today's court reporter, will help California maintain the very highest of standards for the attorneys, judges and litigants alike.

Shorthand Reporters and New Technologies

5. *What role do you see for the board in the use of new technology such as digital court reporting and realtime reporting?*

Response: It is imperative that the CRB remain up-to-date and well-informed on changes in technology. The need for quick or even instantaneous access to a written record of a proceeding is not something that's going to go away. What the future holds in the form of improved or even alternate technologies must be explored and understood in order for quality to remain high while the need for cost-efficiency is addressed. As artificial intelligence continues to improve, technologies used in voice-writing, for example, may one day provide additional options to the industry.

The CRB is currently evaluating the role of realtime reporting in the court reporting market. Our existing charge from the Legislature is to ensure those entering the practice meet minimum standards of competency. While realtime reporting is in great demand and increasing all the time, it is not an entry-level requirement. At this point the CRB must weigh the benefits to the consumer against the use of limited resources and decide whether to approach the Legislature to initiate sunrise procedures to expand the scope of the CRB's charge.

continued...

Just as everyone acknowledges the need for waste disposal while no one wants to live by the landfill, everyone agrees that digital recording costs less initially while no one wants to pay the added costs of later transcription and no one wants to take a chance on a machine when it's their own proceeding being heard. The key here is balancing needs and resources. If there is little or no need in the future for a transcript, such proceedings may well benefit from digital recording. At the other end of the spectrum, a death penalty case which is automatically appealed and often requires production of daily transcripts would employ nothing less than an experienced realtime court reporter. Where on that continuum the usefulness of digital recording ends and the necessity for a court reporter begins is somewhat fluid and influenced to a great degree by not only economics but also developments in technology. The CRB, with its insight into the industry and its concentration on protection of the consumer, is in a position to evaluate and implement new technology.

6. *Where do you see the future of technology and the court reporting profession?*

Response: Ancient Egyptians and Babylonians employed stone to create the first permanent records of man's activities. Over the years, advancements in technology has lead us from papyrus to paper, from bindings to bytes. Civilization requires order, and order is achieved through fair application of laws. Having an impartial verbatim record ensures accountability for words and actions. This basic tenet doesn't go away, but simply changes and adapts with technology. While I know court reporters in the past were called scribes, I don't know what they'll be called in the future. What I do know is there will be a need for an impartial record and court reporters will be fiercely guarding it, under the watchful eye of the California Court Reporters Board.

Sincerely,

A handwritten signature in cursive script that reads "Yvonne K. Fenner". The signature is written in dark ink and is positioned above the printed name.

YVONNE K. FENNER

Cohen ♦ Durrett, LLP

Attorneys at Law

David L. Cohen
David B. Durrett
Gregory M. Finch

Julie V. Reiser
Gordon W. Egan
of Counsel
Jonathan C. Riese

May 1, 2007

Don Perata, Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Mr. Perata:

Please accept the following responses to the questions presented in your April 16, 2007 letter:

1. Attached hereto is a copy of the strategic goals for the Court Reporter's Board. I participated in a weekend retreat to develop this strategic plan. In short, what I hope to accomplish is what is stated in the strategic plan within the timelines presented. I will measure success by how well the plan is completed. In addition, it is important to emphasize that since the development of the strategic plan, the tenor and direction of the Court Reporter's Board has clearly been altered.

There has been a growing sense of common purpose and pride in the direction of the Court Reporter's Board. Implicit, but not firmly stated in the strategic plan, and one of my personal goals, is to raise the consciousness of the importance of the work of the court reporters. The court reporters are truly guardians of the record. In the emerging age of technology, it is paramount that someone can certify that a record is accurate.

2. The law requires the Court Reporter's Board to review each complaint for jurisdictional issues. The Board then sends a letter of acknowledgement to the complainant within 10 days. It is true that a small percentage of complaints are referred to a formal investigation. The Court Reporter's Board makes every attempt to resolve appropriate cases through mediation. Mediation ultimately saves time and money, will consequently result in a faster resolution for all parties concerned, and will permit the licensee to carry on with their practice. However, when a licensee is uncooperative or a more thorough investigation is warranted, the matter is referred to an investigator for fact finding. The investigator will proceed to review court records and will conduct personal interviews if necessary.

3. There are now 17 schools, 8 private and 9 public, in California. However, there does not appear to be a shortage of court reporters. Even though there are half as many candidates and schools from 10 years ago, the number of licenses in the last 20 years has continued to remain steady at approximately 7500 licenses.

Senate Rules Committee

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MAY 03 2007

Appointments

4. The Court Reporter's Board realizes that the reduction in schools and passing applicants could play a role in future shortages. The Board has developed strategic goals to review the educational component, the test validation process, and the review of new technologies and its place in the reporter profession, as outlined in the following questions below. The Board is currently creating a schedule to provide regular school reviews and will be reviewing the curriculum standards based on these reviews.

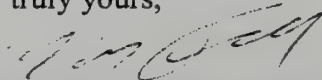
5. The Court Reporter's Board has created a Technology Evaluation Committee, which will conduct research and present recommendations of technological advances to the Board. This committee encompasses working CSRs, CSR business owners and IT professionals from reporter related industries. The Board has reviewed the issue of testing for real-time reporting. Legal counsel has advised the Board that the act of real-time reporting is a covered activity under our current statutory authority. Thus, any licensed reporter can provide real-time reporting. The Board is concerned how reporters can claim proficiency in real-time reporting and is adding that subject to the next review of the Board's licensing exam during the Occupational Analysis study beginning in 2008.

At the last meeting of the Court Reporter's Board, the affiliated associations reported on their efforts to certify that CSRs who represented that they are proficient in real-time reporting are, in fact, proficient. It appears that placing and maintaining the issue in the limelight may cause the CSRs to provide a method by which the consumer can be confident of the certification of a CSR as capable of providing real-time reporting.

6. I am of the opinion that all stake holders should step back and look at a broader picture. The issue of Court/Deposition Reporting and technology is not, in my opinion, an issue of drafting an accurate record. With the growth of technology comes the increased ability to alter and manipulate the record. The CSR will likely use technology to prepare the record but will have the primary duty of certifying the accuracy and completeness of the record. The consumer is not served by production of official records that are **not** certified by persons trained to and are duty bound to protect the accuracy of that record. Thus, the importance of the CSR seems enhanced with the growth of technology. It is from this vantage point, I believe, that the CSRs should view themselves and be viewed by consumers and related professionals.

Lastly, enclosed please find a copy of the Form 700 that was sent on or about March 12, 2007.

Very truly yours,



Gregory M. Finch

GMF:mr
Enclosure

COURT REPORTERS BOARD STRATEGIC GOALS
April 13, 2007

	Professional Qualifications(PQ)¹	Practice Standards(PS)¹	Enforcement(EN)¹	Consumer Information(CI)¹	Organizational Effectiveness(OE)¹
Goals	PQ1. Conduct Board briefings on current practices and procedures on school curriculum recognition. 3/07 Completed 11.06 and 3.07 Boardmeetings.	PS1. Provide technical bulletin regarding proper use of audiosync. Under development.	EN1. Document CRB enforcement activities and record of accomplishments. 3/07 Ongoing.	CI1. Assess the potential for implementing Email information dissemination and implement if feasible. 1/07 Completed – see website.	OE1. Restructure CRB committees to align with CRB goals. 1/07 Completed.
	PQ2. Determine the best approach for ensuring qualifications for realtime reporting, evaluate options and make recommendations to the Board on how to proceed. 3/07 Completed. Board to reconsider based on revised Occupational Analysis after 2008.	PS2. Meet with DCA representatives to discuss privacy issues associated with use of electronic files and identify options for ensuring consumer protection. 1/07 Phase I – Meeting, 12/11; Phase II – Townhall meetings 6/8 - Sacramento; 7/13 - Los Angeles.	EN2. Build enforcement capacity based on results of objectives PS4 and PS5. 6/08 Ongoing.	CI2. Develop and implement consumer information and communication plan. 6/07 Pending.	OE2. Implement system for monitoring progress on strategic plan specific priorities. 1/07 Completed.
	PQ3. Convene committee or task force to study options for implementing continued competency of court reporters. 6/07 Preliminary meeting held 3/29. Task Force under development.	PS3. Work with schools to address proper use of audiosync in course curricula. 2/07 Pending Audiosync task force.		CI3. Increase licensee awareness of professional standards of practice, e.g., ethical practice, definition of fraudulent acts, etc. 6/07 Included in CI2.	OE3. Develop options for addressing and reducing budget reserve. 3/07 Meeting pending after May 10.
	PQ4. Convene task force or hire consultant to study passage rates, school programs and industry standards. 12/07 No fiscal authority, goal pending spending authority 2008 or 2009.	PS4. Convene stakeholders to study pros and cons of banning use of audiosync. 1/08 Townhall meeting scheduled 6/8 - Sacramento; 7/13 - Los Angeles.		CI4. Develop a Minimum Continuing Legal Education (MCLE) course on working with court reporters. 1/08 Researching with State BAR.	OE4. Investigate feasibility of reinstituting CRB telephone advisory service. 3/07 Meeting held; additional staff work in progress.
		PS5. Investigate and determine the CRBs' authority to regulate court reporting firms. 1/08 Pending.			OE5. Involve representatives of professional organizations & associations on the CRB committees. 3/07 Completed.
					OE6. Implement technology advisory memo series. 6/07 Draft under submission.
					OE7. Prepare sunset preview documentation; convene task force to assist Board in preparing Sunset review report. 1/08 Preliminary meeting held; in suspense pending direction from new Sunset Review Committee.

- 1. Please provide us with a brief statement of goals. What do you hope to accomplish during your time on the Court Reporters Board? How will you measure success?**

This past October the Court Reporters Board (CRB) held a two-day strategic planning session. The strategic plan that resulted from the session covers the areas of professional qualifications of licensees, standards of practice, enforcement, consumer information, and organizational effectiveness. Within the listed areas, the CRB created goals and timelines, with some of the goals having been met since then.

During my time on the Board I plan to work within the framework of the strategic plan in implementing the goals that came from that session, which goals include increased consumer awareness of the purpose of the CRB, implementation of continuing education requirements for licensees, and interacting with court reporting schools. Success will be measured by meeting the goals set out in the strategic plan.

- 2. These enforcement statistics suggest that a relatively small number of complaints filed result in formal and disciplinary actions. Are most of the complaints resolved through some other means? Please explain.**

Most complaints, when appropriate, are resolved on an informal basis through mediation. This method benefits the consumer, the licensee, and the taxpayer as mediation results in a quick and satisfactory resolution for both complainant and licensee while at the same time saving taxpayer money by not having to engage in the formal process.

- 3. Has the declining number of schools, successful test applicants, and licensees led to a shortage in the profession?**

While there has been a decrease in the number of schools and successful test applicants, the number of licensees has remained consistently in the area of 7500 over the last 20 years. The last major "shortage" of court reporters was in the mid 1980s, and the profession has not experienced that level of high demand for reporting services since then.

- 4. What role, if any, do you believe the board should play in addressing these pipeline issues?**

Even though the number of reporters has remained consistent over the last 20 years, the CRB recognizes that the issues raised in question #3 could contribute to a future shortage. With that in mind, as part of its

Senate Rules Committee

MAY 03 2007

strategic plan the CRB will be reviewing the educational component, the test validation process, and the review of new technologies and their future use in the profession of reporting. The CRB is currently developing a schedule for conducting systematic school reviews that will include analyzing the curriculum standards of the individual schools.

5. *What role do you see for the Board in the use of new technology such as digital reporting and realtime reporting?*

The CRB has established a Technology Evaluation Committee to explore, research, and provide recommendations to the Board of technological advances within the reporting profession. This committee is comprised of working licensees, owners of court reporting businesses, and IT professionals from court reporter-related industries. This committee is proactively investigating up and coming technological advances within the reporting profession and will make recommendations to the Board on the appropriate applications of new technologies.

Realtime reporting has been in use since the early 1990s, and legal counsel has advised the Board that the act of realtime reporting is a covered activity under the Board's current statutory authority. There is still a need, like any other service provided by reporters, for the Board to monitor the activity level and competency of the realtime reporter.

Digital reporting is a newly developed tool in the reporting field, and pursuant to the strategic plan approved by the CRB, the Board has set up a task force to devise ways to educate the reporting profession of not only the proper use of digital reporting but also to properly identify the appropriate venues for its use.

6. *Where do you see the future of technology and the court reporting profession?*

For the last 30 years, the reporting profession has always embraced new technologies in the field with the result of providing a higher level of service to the consumer. With this ever-changing level of service come the challenges inherent in new technologies – for example, digital signature, privacy issues surrounding electronic transmission of transcripts, and the integrity of the digital record. The Board will continually monitor developments in reporting technology with a focus on educating the licensee in the responsible use of such technologies and in putting in place protections that will give consumers the confidence to beneficially avail themselves of what reporting technology has to offer.

Timothy Cremins

Goals

Mr. Tim Cremins, of Sacramento, currently serves as Director of Education and Research for the California-Nevada Conference of Operating Engineers. In that capacity he directs and develops the legislative and regulatory activities of 120,000 members in two states whom perform such diverse tasks as heavy equipment operation, plant maintenance, maintaining the states highway system, and operation the states water and levee system. Prior to his employment in 1995 he served for eleven years as legislative advocate for the State Building Trades Council, a coalition of building trades unions in the State of California. Mr. Cremins was formally appointed the California Inmate apprenticeship advisory committee by Governor Duekmajian. He is a member of both Operating Engineers Local 3 and Plumbers Local 78. He has currently resides in Sacramento with his three children.

I believe the legislative intent and the unique statutory construction of the commission should be maintained. As now constructed, the commission is composed of an equal number of employee and employer representatives. The commission also segregates and California's diverse workforce by industry and issues regulations for each segment of the economy.

The ability of the commission to form wage boards composed of citizens practicing in particular portions of industry to determined needed changes has the capacity to produced a product based more on current industry practice and less on political considerations. Current statues also allow citizen petion of the commission for changes to a particular wage order. I believe this gives the commission the distinctive ability to hear from all portions of California's workforce.

I believe a commission performing to the true intent as envisioned by the labor code has the ability and nimbleness to respond to California's ever-changing economy and continue to provide for a fair and equable workplace for both employer and employee.

Senate Rules Committee

MAY 14

Appointments

[The body of the page contains extremely faint, illegible text, likely bleed-through from the reverse side of the paper. The text is organized into several paragraphs, but the characters and words are not discernible.]

California Conference of Carpenters

1215 K St., Ste. 1738, Sacramento, CA 95814
916-554-5468 FAX 916-554-5466

Robert Alvarado
Ex. Sec. Treasurer

Douglas J. McCarron
President

Mike McCarron
Vice-President

Daniel M. Curtin
Director

April 30, 2007

The Honorable Don Perata
Chair, Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Senator Perata:

Thank you for your April 18, 2007 letter regarding Senate Rules confirmation of my appointment to the Industrial Welfare Commission. You've asked for a brief statement of my goals for the commission and an updated Form 700.


I believe the Industrial Welfare Commission continues to have an important role in the future of California industrial relations policy regarding wages, hours and working conditions.

The IWC primarily functions as a vehicle to review the adequacy of the minimum wage in California with a statutory mandate to conduct that review at least once every two years. My most immediate concern as a commissioner is to guarantee that the IWC fulfills its mission in this critical area.

The well-being of California's workers rests on a California economy that in some cases drives, but in all cases must continue to adapt to advancing technologies, shifting global economic realities, and continuing changes in workforce demographics. Inevitably, this continuing dynamic will lead to labor-management friction and disputes.

The IWC is a time-tested venue for resolving many of these types of industrial relations issues and importantly, is mandated to continually review and update its rules, regulations and policies necessary to provide adequate and reasonable wages, work hours and working conditions appropriate for the health and welfare of employees in a modern, dynamic economy. My long term goal for the IWC is to continue to provide an effective forum that protects the rights and well-being of working people as required by California law while at the same time balancing the needs of a dynamic and changing economy to provide job opportunities for a growing population of workers in our state.

Thank you for your inquiry and I hope my appointment meets with your approval.

Sincerely,

Daniel M. Curtin
Director

Senate Rules Committee

MAY 01 2007

Appointments

MEMORANDUM

May 9, 2007

**To: The Honorable Don Perata
Members of the Senate Rules Committee**

Fr: Leslee Guardino, Industrial Welfare Commission

Re: Industrial Welfare Commission Goals Statement

It has been my honor and privilege to serve on the State's Industrial Welfare Commission since 2001. The activities of this Commission have an impact on the daily lives of workers throughout the State and I take my duties as a Commissioner very seriously. I have worked hard to make decisions that are protective of workers in the area of wages, hours and working conditions, and employee health, safety and welfare. I believe we have taken important steps in recent years to raise the minimum wage, to protect the working conditions for sheepherders and other agricultural workers, and to investigate other issues such as meal and rest periods and breaks in certain industries.

My short term goals are to continue to be an active and engaged Commissioner on issues that come before us. I will continue to thoroughly research the issues, speak with interested stakeholders to hear their perspectives, and make informed decisions on matters that require the Commission's attention.

In the long term, I hope this Commission can continue to work collaboratively with the Governor, the legislature, and community stakeholders to find solutions to pressing issues that may not be easily resolved by any one branch of government. I also hope to work with my colleagues and Commission staff to provide better communication to interested parties about our work and to more proactively seek their input. Finally, I would like to work with Commission staff to further improve our website to make it even more user-friendly to employees and employers seeking information about Commission activities and decisions.

I thank you very much for your consideration and I hope to have the opportunity to continue to serve. I am happy to answer any questions you may have.

Senate Rules Committee

MAY 09 2007

Appointments

Willie Washington
Member, Industrial Welfare Commission
Goals

Chair, Senate Rules Committee

Please pardon my tardiness in getting this information to you. I received the information, misplaced it and lost track of the due date. I appreciate the thoughtfulness of the Rules Committee Staff to contact me and give me the opportunity to get this information to you.

As a long time employer representative in the state of California for 28 years and primarily subject to the Industrial Welfare Commission's (IWC) Wage Orders 1 Manufacturing and Wage Order 4, Professional, Technical, I have a long history with the commission. Moreover, during the last 18 years of my employment as a lobbyist for the California Manufacturers and Technology Association (CMTA), I followed the work of the commission closely and appeared before the commission on more occasions than I can remember. Needless to say, I am far more than just familiar with the IWC.

After retiring from full time employment at the end of 2004, CMTA retained me as a consultant in order to have continued access to my knowledge and experience. Last year, I was mildly surprised, but pleased when I received a telephone call from the Governor's office asking me to accept an appointment to the IWC. I thought, Wow! After all the years of appearing before the commission, this is a great opportunity to apply my knowledge and experience with California labor law and wage orders in a positive and constructive manner.

Since I did not seek this appointment, I did not come aboard with pre-conceived goals or objectives. In fact, I have not articulated or set any goals or objectives on paper. In my view, issues are brought to the commission with the exception of Minimum Wage which the commission is required to review by statute.

However my natural instinct is to try to improve on the quality of hearings on issues before the commission. I intend to listen closely to all persons appearing before the commission, ask questions when needed to make sure that I fully understand their positions. And after weighing all of the information made available to me, to apply my knowledge, experience, and understanding of the issue and the law in making my decisions.

And should the opportunity present itself, I would work very hard on making sure that any new wage orders, changes, revisions etc, to the orders are written in clear and understandable language that both employers and employees can easily understand and comply with.

Please call me if you have any questions at 916 601 9806.

Willie Washington
Member, IWC

CALIFORNIA LEGISLATURE

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SECRETARY OF THE SENATE

NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

April 11, 2007

John Chin. M D

Dear Dr. Chin:

The Senate Rules Committee will conduct a confirmation hearing on your appointment to the Medical Board of California on Wednesday, May 9, 2007. You are not required to appear, but we request that you respond in writing to the following questions. Please provide your responses by May 2, 2007.

We would also like to receive an updated Form 700, Statement of Economic Interest, by May 2nd. A copy of the statement you submitted to us earlier is enclosed so that you may review it for any changes that might have occurred.

Statement of Goals

1. *What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your tenure? How will you measure your success?*

Board Restructuring

The Medical Board currently consists of 21 members, nine of whom are public members. The board is separated into two divisions: the Division of Medical Quality and the Division of Licensing. The board is currently sponsoring AB 253 (Eng), which proposes to reduce the board's size to 19 members, by eliminating two professional member positions. The bill would also combine the board's two divisions.

2. *How will the proposed restructuring impact the operations or effectiveness of the board? In your opinion is it necessary to combine the two divisions?*
3. *The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?*

Public Access and Outreach

The Medical Board has responsibility for licensing and disciplining doctors. Its 2005-06 annual report indicated that, at that time, the board issued 122,169 physician and surgeon licenses. By statute, protection of the public is the board's highest priority.

4. *At a recent meeting, the board indicated that it intends to reduce the length of its published minutes by recording only action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?*
5. *How does the board ensure that members of the public—including those with limited English proficiency—can participate in or access information about its activities? What more could the board do to ensure that consumers are aware of the board and the important role it plays?*
6. *The Medical Board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavioral Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the board considered posting its meeting materials online?*

Division of Medical Quality Review of Decisions

Under current law, the Division of Medical Quality, the enforcement arm of the board, is responsible for reviewing proposed decisions by administrative law judges (ALJs) in disciplinary matters against licensed doctors. Based on its review, the Division of Medical Quality either adopts or does not adopt the ALJ's proposed decision. The Division of Medical Quality is also responsible for reviewing more ministerial disciplinary decisions, i.e., stipulations and default decisions

An independent enforcement monitor who spent two years evaluating the board's functions, including the disciplinary system, criticized this review process as time-consuming and overly cumbersome because it requires subsequent decision makers to relearn the details of a disciplinary matter.

AB 253, sponsored by the board, would transfer the review of certain ministerial decisions, i.e., stipulations and default decisions, to the board's executive director. According to board staff, this revision would eliminate "the review of approximately ¾ of the current workload" for members of the Division of Medical Quality. Under the current draft of AB 253, the Division of Medical Quality would continue to review all other proposed decisions by ALJ's.

7. What, if any, do you believe the board's role should be in reviewing disciplinary matters?

When the board does not adopt a decision of an administrative law judge, existing law requires that the parties be offered the opportunity to present their arguments orally before a panel of the Division of Medical Quality. This process has been criticized by the enforcement monitor and others for a variety of reasons. Board staff have recommended that the process for oral arguments be eliminated if AB 253 is enacted, which would allow the executive director to review and adopt all stipulations and default decisions.

8. What is your opinion about the value of the oral argument process?

Budgetary Issues

The independent enforcement monitor's reports also contained a number of suggestions for reforming the board's enforcement program. Several of these reforms have already been implemented by the board. However, the monitor recommended that the board restore the enforcement positions that were abolished in the 2001-04 hiring freeze and that the salaries of board investigators be upgraded to be commensurate with the salaries of investigators at other state agencies. These recommendations have yet to be implemented and they were not requested by the administration this year.

9. What is the status of these recommendations? What role do board members play in determining whether suggested reforms are implemented?

Diversion Program Issues

The Medical Board's diversion program routes substance-abusing physicians out of the enforcement program and into the diversion program. While physicians do not receive treatment through the program, they are monitored for compliance. Participation in the program is confidential. Existing law makes the diversion program inoperative on July 1, 2008, though SB 761 (Ridley-Thomas) would extend this date to July 1, 2010. The Bureau of State Audits is currently conducting a performance audit of the board's diversion program, scheduled for release by June 30, 2007.

10. Understanding that the audit is forthcoming, do you have recommendations for improvements to the diversion program? If so, please indicate them.

In 1982, the board created a liaison committee to the diversion program in an effort to provide the board with expertise on issues regarding this program. The board dissolved the committee in February 2006 in response to concerns raised by the enforcement

monitor that the committee had evolved into an unwieldy entity whose purpose was unclear and output excessively delayed.

In order to help the board make more informed decisions about diversion program issues, the board recently voted to approve the creation of a Diversion Advisory Council and SB 761 was amended to create such a council

11. Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?

Vertical Prosecution

Senate Bill 231 (Figueroa), Chapter 674, Statutes of 2005, enacted a number of reforms concerning the Medical Board, including a requirement to begin implementation of the vertical prosecution model in which board investigators work closely with prosecutors in the attorney general's office. Under existing law, the vertical prosecution program will become inoperative on July 1, 2008. Currently, SB 761 would extend this date to July 1, 2010. Existing law also requires the board to submit a report and make recommendations to the Legislature and the Governor on the vertical prosecution model.

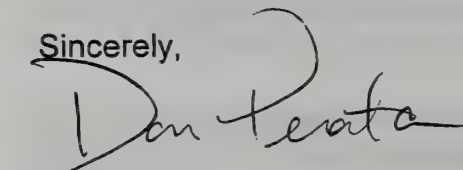
12. Please update the Committee on the implementation of the vertical prosecution program. What steps has the board taken to begin implementation of the program? Are there additional efforts you believe are necessary for successful implementation?

13. What is the status of the board's report to the Legislature and Governor on the vertical prosecution model? Please describe any preliminary findings.

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help.

Sincerely,



DON PERATA

DP:SK

April 7, 2007

Nettie Sabelhaus
Rules Committee Appointments Director
Room 420
State Capitol
Sacramento, CA 95814

Senate Rules Committee

MAY 03 2007

Dear Ms. Sabelhaus:

Appointments

1. In response to your questions in regard to my goals and objective as a member of the Medical Board of California, I would plan to uphold the prime directive of consumer protection. This is a new endeavor for me, and I believe my success will need to be judged by others.
2. With regard to the issue of Board restructuring, as a new Board member I do not have the background to fully understand the impact of combining the two divisions. My understanding is that our Board is larger than most, and the proposed restructuring would allow us to hopefully reduce the size of the membership and maintain its effectiveness.
3. As to the issue of professional member representation, I do believe that a majority profession member representation is helpful. In the cases that I have already been involved in, it has been extremely helpful to have some medical background to be able to help convey to the public members the potential thinking of the issues at hand as well as to help understand the suitability of proposed stipulations.
4. In regard to question #4, pertaining to reducing the length of published minutes by recording only action items, it is hoped that this will provide a document that is readable and "user-friendly," with the caveat that all appropriate details will be included.
5. In regard to question #3, pertaining to ensuring that members of the public with limited English proficiency have access to information about the activity of the Board, I think this is an issue the Board is well aware of and quite keen on. I have been invited to consider being part of a subcommittee to reach out to the Asian population, in particular, and we have Board members who are proficient in Spanish. Suffice it to say that, during my short tenure in attending these Board meetings, the issue of consumer awareness and protecting those with limited English proficiency has already been brought up and discussed.
6. Question #6 pertains to meeting agendas and posting meeting materials on the web site, which is a direction that the Board has been moving toward. Again, during my short tenure over the past six months, we have already moved to posting case reviews on the web. The issue of security and privacy for the patients and physicians obviously is critical in posting the cases and reviewing proposed decisions. In the future, I would expect meeting materials will also be posted on the web.

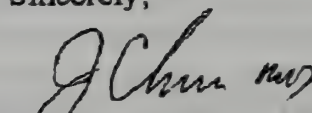
7-8 The question of the Division of Medical Quality reviewing proposed decisions and stipulations is a complex issue. I have personally found it to be a useful learning process, when a decision is made to not adopt a decision of the administrative law judge, and it is my personal opinion that, while the Executive Director may be extremely capable and has obviously been through the entire process, it is useful to understand some of the medical nuances and to have input into the appropriateness and suitability of the proposed disciplinary action. In the cases where I have been part of the oral argument process, I have found some of the oral arguments to be useful and some to be perhaps less useful.

9 Question #9 pertains to budgetary issues and the recommendation to restore enforcement positions and upgrade the salary of Board investigators to be commensurate with the salaries of investigators at other state agencies. These are recommendations that I, as a Board member, have supported, but, again, as a Medical Board member, we do not have the ability to implement these reforms.

10 With regard to question #10 pertaining to the Diversion Program, my sense is that it is working well. I understand that an audit is forthcoming during our last Board retreat. Several physicians testified as to the effectiveness of the program and to the program's effect on their own lives. At this time, I do not feel qualified to comment on how the Board will ensure that the newly proposed "Diversion Advisory Council" will not face the same criticism as previous liaison committees.

12-15 Finally, the vertical prosecution model in which Board investigators work closely with prosecutors in the Attorney General's office is a work in progress. Logistical issues, such as the physical work area of Board investigators versus prosecutors from the Attorney General's office, have to be coordinated. Discussions are ongoing. I am confident that the details will be worked out, and I would expect the Board's report would be forthcoming.

Sincerely,



JOHN CHIN, M.D., F.A.C.C.

JC:mez

cc: File

To: Nettie Sabelhaus, Rules Committee Appointments Director

From: Dorene C. Dominguez
Board Member

Below are my responses to the questions from the Senate Rules Committee.

1. *What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your tenure? How will you measure your success?*
 - To protect the public from misconduct of doctors
 - Providing creative options to increase healthcare to the entire general public
2. *How will the proposed restructuring impact the operations of effectiveness of the board? In your opinion is it necessary to combine the two divisions?*
 - Yes, in my opinion combining the two divisions, I believe this will make the Board more effective by understanding licensing and enforce and how they relate to each other. I have sat on other boards where licensing and enforcement were combined and this works better than dividing the two.
3. *The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?*
 - I believe that public members are necessary in maintaining objectivity and concern for the public. I also believe that different specialties on the medical industry should be represented. The proposed restructuring can achieve this by maintaining the same ratio.
4. *At a recent meeting, the board indicated that it intends to reduce the length of its published minutes by recording only action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?*
 - I was not a board member at the time that the Board indicated that it needed to reduce the length of its published minutes.

Senate Rules Committee

MAY 01 2007

Appointments

5. *How does the board ensure that members of the public-including those with limited English proficiency-can participate in or access information about its activities? What more could the board do to ensure that consumers are aware of the board and the important role it plays?*
 - The Board holds its meetings where they are easily accessible to the public usually in Los Angeles, San Diego, San Francisco and Sacramento.
 - The board is involved in health fairs throughout the state and informs consumers about the services that are provided by the board. We use bilingual staff for these outreach programs.
6. *The medical board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavioral Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the board considered posting its meeting materials online?*
 - It would be on the Medical Board's best interest to post meeting minutes online.
7. *What, if any, do you believe the board's role should be in reviewing disciplinary matters?*
 - I believe the board should review disciplinary matters to provide due process.
8. *What is your opinion about the value of the oral argument process?*
 - Oral arguments provide the opportunity to observe and hear a respondent when deciding whether to modify the penalty imposed by an Administrative Law Judge. Sometimes new evidence is introduced in the hearing that should not be considered.
9. *What is the status of these recommendations (restoring lost investigator positions and a salary increase for investigators)? What role do board members play in determining whether suggested reforms are implemented?*
 - As a new Board member, I support the efforts of Board staff working with the Administration and the Legislature to restore lost investigator positions and I am coming up to speed on the pay issue. Board oversight of staff, including monitoring progress at each board meeting, is important to ensuring that suggested reforms are implemented.

10. *Understanding that the audit is forthcoming (Diversion Program audit), do you have recommendations for improvements to the diversion program? If so, please indicate them.*
- I would want to wait until the audit is release before making any recommendations.
11. *Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?*
- The board will ensure that the Diversion Advisory Council will take the appropriate steps to oversee the program by monitoring the work, making reports at each meeting, and be responsible for delegating tasks and following up on these tasks in a timely manner.
12. *Please update the Committee on the implementation of the vertical prosecution program. What steps has the board taken to begin implementation of the program? Are additional efforts you believe are necessary for successful implementation?*
- As a new Board member, I support the Vertical Prosecution Program and the important goal of integrating Board investigations and AG prosecutions so as to improve efficiency and public confidence in the disciplinary process. Teaming an investigator with a prosecuting AG until the investigation is concluded makes great sense. As I learn more about the Program, I expect to have a better understanding of the merits of transferring investigators to the Office of the Attorney General and the other mechanics of vertical prosecution, as well as the merits of pay parity.
13. *What is the status of the board's report to the Legislature and Governor on the vertical prosecution model? Please describe any preliminary findings.*
- The report is due to the Governor and Legislator on July 1, 2007 and the board is currently working on a draft report. The draft will be completed by the first part of May and the final report will be submitted prior to the due date. Progress is being made and the preliminary findings are encouraging. The Enforcement Monitor indicated that the amount of time it takes to obtain medical records and also the amount of time for a physician interview has been taking too long. Our findings indicate that both areas have improved. The amount of time has decreased and is shorter.



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SCHOOL OF MEDICINE

April 29, 2007

Senator Don Perata
Chairman, Senate Rules Committee
State Capitol Room 420
Sacramento, California 95814-4900

Attn: Nellie Sablehaus
Rules Committee Appointment
Director

Re: Reginald Low M.D.
Appointment to Medical Board of California
Confirmation Hearing

Dear Senator:

In anticipation of the confirmation hearing of my appointment to the Medical Board of California, I am submitting my responses to your questions. Also enclosed is an updated Form 700, Statement of Economic Interest.

Statement of Goals

What are your goals and objectives as a member of the Medical Board?
What do you hope to accomplish during your tenure?
How will you measure success?

As a member of the Medical Board, I am committed to protect and enhance the health, welfare and safety of the public through the proper licensing and regulation of physicians and surgeons. My goal is to support and facilitate the mission so that the process is efficient and fair. Another objective is to ensure that programs such as board restructuring, vertical prosecution and upgrading the salary of the investigators proceed in a timely manner. I would like to contribute in developing a program of continuous quality improvement for the various Divisions of the Medical Board.

I want to contribute to the strong leadership and vision of the Board so that we create the best Board in California and the best Medical Board in the country. Health care delivery is a constantly changing environment and the Board must be versatile and adaptive to meet the challenges of maintaining public safety.

Success is measured by achieving the goals and objectives as well as the accomplishment of the Board. At the end of the day, we must feel good that we have served the Governor, Legislature, and citizens of California with the charge of the Medical Board.

Board Restructuring

The Medical Board currently consists of 21 members, nine of whom are public members. The Board is separated into two divisions: the Division of Medical Quality and the Division of Licensing. The Board is currently sponsoring AB253 (Eng), which proposes to reduce the Board's size to 19 members, by eliminating two professional member positions. The bill would also combine the Board's two divisions.

How will the proposed restructuring impact the operations or effectiveness of the board? In your opinion is it necessary to combine the two divisions?

The proposed restructuring of the Medical Board is the result of intense study, monitoring and discussion to enhance its efficiency and effectiveness. By combining the two divisions, the Board President will assign members to standing committees on enforcement, licensing, diversion and others, which is similar to other California Boards. The members of the Board will then experience all aspects and functions of the Board rather than focusing only on Quality or Licensing. This broader exposure should contribute to a better understanding of all the Medical Board's functions and responsibilities. The larger cohort of members available for all committees may enhance the expertise in some areas. As Board members, we should then be better qualified to help ensure quality healthcare for the citizens of California.

The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?

The organization of the current Board is 12 physician and 9 public members. With the restructuring, there would be 10 physician and 9 public members, which is a good balance of representation. As medicine has become very specialized, 10 physicians should provide a broad range of medical expertise and experience, which can facilitate the understanding of the complex, issues that face the Board.

Public Access and Outreach

The Medical Board has responsibility for licensing and disciplining doctors. Its 2005-06 annual report indicated that, at that time the Board issued 122,169 physician and surgeon licenses. By statute, protection of the public is the Board's highest priority.

At a recent meeting, the Board indicated that it intends to reduce the length of its published minutes by recording only the action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?

I believe that it is the intent of the Board to have the minutes accurately reflect the proceeding of the meetings, which would include not only the action items but also all relevant discussion. In the past, apparently the minutes contained long passages, which were essentially transcripts of some lengthy discussions. As the meetings are recorded electronically, there may have been a tendency to transcribe the entire discussion rather than a summary of the minutes. This should be more efficient as well. The minutes need to document and reflect the proceeding of the meeting so that all relevant discussion points are detailed.

How does the Board ensure that members of the public—including those with limited English proficiency—can participate in or access information about its activities? What more could the Board do to ensure that consumers are aware of the Board and the important role it plays?

The Medical Board has an excellent Web Site that is rated among the best in the country. The Internet is one of the best vehicles for public access of information. Additionally, the Board has an excellent Public Information Officer who has improved media coverage to ensure public awareness to the Medical Board. Much of the important consumer information is available in English or Spanish for downloading from the Medical Board Web Site. The universal availability of translators or translator services through hospitals, physician offices and via the telephone company contributes to public access for the non-English speaking. The Medical Board Staff (Bilingual) is also very active in health fairs throughout California and they provide comprehensive information to consumers about the services available through the MBC.

The Medical Board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavioral Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the Board considered posting its meeting materials online?

Beginning with the recently held Board Meeting in Sacramento, the Medical Board posts not only the agenda and minutes, but also the meeting material, which can be downloaded, from the Web Site as a PDF file. The Medical Board is committed to serving the citizens of California and I believe that the staff will make all the appropriate material available via the Web Site.

Division of Medical Quality Review of Decisions

Under current law, the Division of Medical Quality, the enforcement arm of the board, is responsible for reviewing proposed decisions by administrative law judges (ALJs) in disciplinary matters against licensed doctors. Based on its review, the Division of Medical Quality either adopts or does not adopt the ALJ's proposed decision. The Division of Medical Quality is also responsible for reviewing more ministerial disciplinary decisions, i.e., stipulations and default decisions.

An independent enforcement monitor, who spent two years evaluating the Board's functions, including the disciplinary system, criticized this review process as time-consuming and overly

cumbersome because it requires subsequent decision makers to relearn the details of a disciplinary matter.

AB 253, sponsored by the Board, would transfer the review of certain ministerial decisions, i.e., stipulations and default decisions, to the Board's executive director. According to Board staff, this revision would eliminate "the review of approximately ¾ of the current workload" for members of the Division of Medical Quality. Under the current draft of AB 253, the Division of Medical Quality would continue to review all other proposed decisions by ALJ's.

What, if any, do you believe the Board's role should be in reviewing disciplinary matters?

At this time, by law, the Medical Board must review and approve all disciplinary matters except Public Letters of Reprimand. As I understand the proposed restructuring, the Board would delegate authority to the Board's Executive Director, to approve stipulations for surrender of licenses and default decisions. Proposed decisions and proposed stipulations will continue to be reviewed and approved by the Board.

In order to optimally protect the consumer, I believe that the Board should continue to review all proposed decisions by ALJ's and proposed stipulations. The present system has the proposed decisions and proposed stipulations reviewed by a panel of 7 members and if there are 2 non-adopt votes, the case is presented at the Division of Medical Quality Meeting by the Deputy Attorney General and an Attorney from Consumer Affairs assigned to the Medical Board. This ensures an independent and objective review by 7 Board members with a broad scope of expertise and interest. The thorough and comprehensive process should then render fair enforcement decisions that will best protect the public.

When the Board does not adopt a decision of an administrative law judge, existing law requires that the parties be offered the opportunity to present their arguments orally before a panel of the Division of Medical Quality. This process has been criticized by the enforcement monitor and others for a variety of reasons. Board staff have recommended that the process for oral arguments be eliminated if AB 253 is enacted, which would allow the executive director to review and adopt all stipulations and default decisions.

What is your opinion about the value of the oral argument process?

The oral argument is presented to the Board during a session chaired by the Administrative Law Judge and this is an opportunity for the panel to observe and hear from the Attorneys and respondent when deciding to accept or modify the penalty imposed by the ALJ. The value of the oral argument would be enhanced if the respondent is giving sworn testimony and there should be no new evidence introduced. I believe that this system of additional review will result in better validation and acceptance of the decision (penalty).

Budgetary Issues

The independent enforcement monitor's reports also contained a number of suggestions for reforming the Board's enforcement program. The Board has already implemented several of these reforms. However, the monitor recommended that the Board restore the enforcement positions that were abolished in the 2001-04 hiring freeze and that the salaries of Board investigators be upgraded to be commensurate with the salaries of investigators at other state agencies. These recommendations have yet to be implemented and they were not requested by the administration this year.

What is the status of these recommendations? What role do Board members play in determining whether suggested reforms are implemented?

At the most recent Medical Board Meeting last week, the Board reinforced the importance of restoring the enforcement positions that were abolished during the hiring freeze from 2001-04. Furthermore, there is consensus among the Board members and staff that the salaries of the Board investigators be upgraded to be commensurate with the salaries of Special Agents in the Department of Justice. Without these adjustments, the recruitment and retention of investigators to the Enforcement Division of the Medical Board is challenging and leads to inefficiency. There were assurances that the Medical Board Staff is working with the Administration and Legislature to bring about these important and necessary changes. The Medical Board will continue to monitor and provide oversight on this matter until it is implemented.

Diversion Program Issues

The Medical Board's Diversion Program routes substance-abusing physicians out of the Enforcement Program and into the Diversion Program. While physicians do not receive treatment through the program, they are monitored for compliance. Participation in the program is confidential. Existing law makes the diversion program inoperative on July 1, 2008, though SB 761 (Ridley-Thomas) would extend this date to July 1, 2010. The Bureau of State Audits is currently conducting a performance audit of the Board's diversion program, scheduled for release by June 30, 2007.

Understanding that the audit is forthcoming, do you have any recommendation(s) for improvement to the diversion program? If so, please indicate them.

Although the enforcement program and diversion program are separate, the discipline and rehabilitation of a physician are a continuum with oversight by probation monitors. The reports from the Chief of Diversion would indicate that major aspects of the program are closely tracked with continuous efforts at quality improvement. The Board is awaiting the results of the audit so that we may generate appropriate recommendations for improvement.

In 1982, the Board created a liaison committee to the Diversion Program in an effort to provide the Board with expertise on issues regarding this program. The Board dissolved the committee in February 2006 in response to concerns raised by the enforcement monitor that the committee had evolved into an unwieldy entity whose purpose was unclear and output excessively delayed.

In order to help the Board make more informed decisions about Diversion Program issues, the Board recently voted to approve the creation of a Diversion Advisory Council and SB 761 was amended to create such a council.

Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the Board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?

At the recent April Medical Board Meeting, the Diversion Advisory Council was established. The nominations of highly qualified members were made from various groups and approved. The Diversion Committee will provide direction and assign tasks to the council followed by close monitoring and oversight of the council by both the Division of Medical Quality and the Diversion Committee. The DAC will present their report at each meeting of the Diversion Committee.

Vertical Prosecution

Senate Bill 231 (Figueroa), Chapter 674, Statutes of 2005, enacted a number of reforms concerning the Medical Board, including a requirement to begin implementation of the Vertical Prosecution Model in which Board investigators work closely with prosecutors in the Attorney General's Office. Under existing law, the Vertical Prosecution Program will become inoperative on July 1, 2008. Currently, SB 761 would extend this date to July 1, 2010. Existing law also requires the Board to submit a report and make recommendations to the Legislature and the Governor on the Vertical Prosecution Model.

Please update the Committee on the implementation of the Vertical Prosecution Program. What steps has the Board taken to begin implementation of the program? Are there additional efforts you believe are necessary for successful implementation?

The Enforcement Program of the Medical Board initiated the Vertical Prosecution system in January 2006. Since that time, the Medical Board in conjunction with the Attorney General's Office has assigned a Board investigator and a Deputy Attorney General to each new complaint, which is undergoing investigation, and they work together on the case until it is concluded. The benefits to this parallel assignment and integration are obvious with improved efficiencies. Not only do cases proceed in a more timely fashion, but also this longitudinal approach allows for continuity in the evaluation and processing of a case.

While substantial progress has been made, there are geographic, logistic and perhaps political issues that prevent full optimization of such a system. The Medical Board and its District Offices are not always geographically located near the Attorney General's Offices and the occasional long distances between these

two systems, interferes with efficiency. Furthermore, logistic issues such as each system having their own computer system with different proprietary software for evaluating and tracking each case prevents optimum sharing of information. The disparate salaries of Investigators of the Board and Special Agent of the Department of Justice may affect the continuity of a case in the event that an investigator leaves his position for a similar but better paying position in the DOJ.

Nevertheless, the Medical Board and the Attorney General's Office are committed to this model. Issues interfering with full integration have been identified and solutions are being developed so that the full utility of this system can be realized. An example to solve geographic differences might be the co-location of District Offices with AG Offices in the same building but again, this may depend on factors such as the leases in place and the availability of office space in these locations. Accessibility to each other's database is also problematic and hampered by security issues. Electronic solutions and video conferencing may help solve some of these problems.

The Medical Board and the Attorney General's Office remain committed and support a complete solution and integration.

What is the status of the board's report to the Legislature and Governor on the Vertical Prosecution Model? Please describe any preliminary findings.

The Medical Board has a draft report that should be completed in the next few weeks and the final report will be submitted to the Governor and Legislature prior to the July 2007 deadline.

Already, many efficiencies have been realized such as faster acquisition of medical records, time to interview, along with other enhancements, which will be detailed in the full report.

Potential Conflicts of Interests

Under the Political Reform Act, a public official may have a conflict of interest if he or she participates in a government decision, which would have a significant impact on the official's economic interests.

In your Statement of Economic Interests, you indicated your wife's partnership interest in Low, McKinley, Baleria, LLP, a defense law firm which, according to its Web Site, specializes in medical malpractice and Medical Board actions, among other things. Given that this law firm is active in the field of medical practice, have you received training and advice to assist you in understanding the potential for a conflict of interest?

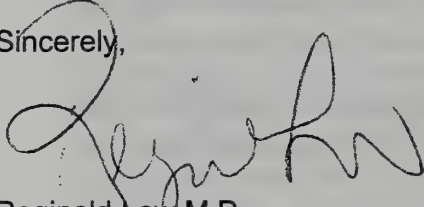
I have participated in the excellent presentations and orientations provided by the Department of Consumer Affairs and Medical Board for new Board members. These sessions have included Attorneys who have discussed the topic of "conflict of interest" in detail. Furthermore, I have completed training in Ethics and we have access to the Attorneys for the Department of Consumer Affairs and Medical Board should any questions arise.

In my wife's law practice, the overwhelming focus of their work relates to medical malpractice defense of physicians, hospitals and skilled nursing facilities.

Being in Academic Medicine, the issue of "conflict of interest" is emphasized with frequent courses, articles and discussions on this topic. At the beginning of each presentation, the medical community has included a slide of disclosure to address this topic. On a personal note, I have always maintained the highest moral and ethical standards.

Thank you for this opportunity to share my thoughts. Please contact me if you have any questions regarding my responses.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Reginald Low', written in a cursive style.

Reginald Low M.D.
Chief, Division of Cardiovascular Medicine

CALIFORNIA LEGISLATURE

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NETTIE SABELHAUS
APPOINTMENTS DIRECTOR

SENATE RULES COMMITTEE

DON PERATA
CHAIRMAN

April 11, 2007

Janet K. Salomonson, M.D.

Dear Dr. Salomonson:

The Senate Rules Committee will conduct a confirmation hearing on your appointment to the Medical Board of California on Wednesday, May 9, 2007. You are not required to appear, but we request that you respond in writing to the following questions. Please provide your responses by May 2, 2007.

We would also like to receive an updated Form 700, Statement of Economic Interest, by May 2nd. A copy of the statement you submitted to us earlier is enclosed so that you may review it for any changes that might have occurred.

Statement of Goals

1. *What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your tenure? How will you measure your success?*

Board Restructuring

The Medical Board currently consists of 21 members, nine of whom are public members. The board is separated into two divisions: the Division of Medical Quality and the Division of Licensing. The board is currently sponsoring AB 253 (Eng), which proposes to reduce the board's size to 19 members, by eliminating two professional member positions. The bill would also combine the board's two divisions.

2. *How will the proposed restructuring impact the operations or effectiveness of the board? In your opinion is it necessary to combine the two divisions?*
3. *The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?*

Public Access and Outreach

The Medical Board has responsibility for licensing and disciplining doctors. Its 2005-06 annual report indicated that, at that time, the board issued 122,169 physician and surgeon licenses. By statute, protection of the public is the board's highest priority.

4. *At a recent meeting, the board indicated that it intends to reduce the length of its published minutes by recording only action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?*
5. *How does the board ensure that members of the public—including those with limited English proficiency—can participate in or access information about its activities? What more could the board do to ensure that consumers are aware of the board and the important role it plays?*
6. *The Medical Board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavioral Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the board considered posting its meeting materials online?*

Division of Medical Quality Review of Decisions

Under current law, the Division of Medical Quality, the enforcement arm of the board, is responsible for reviewing proposed decisions by administrative law judges (ALJs) in disciplinary matters against licensed doctors. Based on its review, the Division of Medical Quality either adopts or does not adopt the ALJ's proposed decision. The Division of Medical Quality is also responsible for reviewing more ministerial disciplinary decisions, i.e., stipulations and default decisions

An independent enforcement monitor who spent two years evaluating the board's functions, including the disciplinary system, criticized this review process as time-consuming and overly cumbersome because it requires subsequent decision makers to relearn the details of a disciplinary matter.

AB 253, sponsored by the board, would transfer the review of certain ministerial decisions, i.e., stipulations and default decisions, to the board's executive director. According to board staff, this revision would eliminate "the review of approximately ¾ of the current workload" for members of the Division of Medical Quality. Under the current draft of AB 253, the Division of Medical Quality would continue to review all other proposed decisions by ALJ's.

7. *What, if any, do you believe the board's role should be in reviewing disciplinary matters?*

When the board does not adopt a decision of an administrative law judge, existing law requires that the parties be offered the opportunity to present their arguments orally before a panel of the Division of Medical Quality. This process has been criticized by the enforcement monitor and others for a variety of reasons. Board staff have recommended that the process for oral arguments be eliminated if AB 253 is enacted, which would allow the executive director to review and adopt all stipulations and default decisions.

8. *What is your opinion about the value of the oral argument process?*

Budgetary Issues

The independent enforcement monitor's reports also contained a number of suggestions for reforming the board's enforcement program. Several of these reforms have already been implemented by the board. However, the monitor recommended that the board restore the enforcement positions that were abolished in the 2001-04 hiring freeze and that the salaries of board investigators be upgraded to be commensurate with the salaries of investigators at other state agencies. These recommendations have yet to be implemented and they were not requested by the administration this year.

9. *What is the status of these recommendations? What role do board members play in determining whether suggested reforms are implemented?*

Diversion Program Issues

The Medical Board's diversion program routes substance-abusing physicians out of the enforcement program and into the diversion program. While physicians do not receive treatment through the program, they are monitored for compliance. Participation in the program is confidential. Existing law makes the diversion program inoperative on July 1, 2008, though SB 761 (Ridley-Thomas) would extend this date to July 1, 2010. The Bureau of State Audits is currently conducting a performance audit of the board's diversion program, scheduled for release by June 30, 2007.

10. *Understanding that the audit is forthcoming, do you have recommendations for improvements to the diversion program? If so, please indicate them.*

In 1982, the board created a liaison committee to the diversion program in an effort to provide the board with expertise on issues regarding this program. The board dissolved the committee in February 2006 in response to concerns raised by the enforcement

monitor that the committee had evolved into an unwieldy entity whose purpose was unclear and output excessively delayed.

In order to help the board make more informed decisions about diversion program issues, the board recently voted to approve the creation of a Diversion Advisory Council and SB 761 was amended to create such a council

- 11. Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?*

Vertical Prosecution

Senate Bill 231 (Figueroa), Chapter 674, Statutes of 2005, enacted a number of reforms concerning the Medical Board, including a requirement to begin implementation of the vertical prosecution model in which board investigators work closely with prosecutors in the attorney general's office. Under existing law, the vertical prosecution program will become inoperative on July 1, 2008. Currently, SB 761 would extend this date to July 1, 2010. Existing law also requires the board to submit a report and make recommendations to the Legislature and the Governor on the vertical prosecution model.

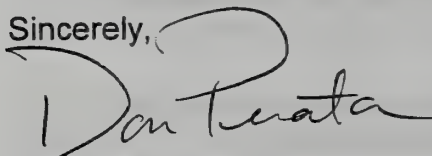
- 12. Please update the Committee on the implementation of the vertical prosecution program. What steps has the board taken to begin implementation of the program? Are there additional efforts you believe are necessary for successful implementation?*

- 13. What is the status of the board's report to the Legislature and Governor on the vertical prosecution model? Please describe any preliminary findings.*

Please direct your responses to Nettie Sabelhaus, Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help.

Sincerely,



DON PERATA

DP:SK

Janet Salomonson, M.D., F.A.C.S.

Plastic and Reconstructive Surgery

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(310) 453-8709 FAX (310) 829-1733 • E-mail: salomonson@aol.com

Senate Rules Committee

MAY 01 2007

Senate Confirmation Questions

Appointments

Statement of Goals

1. My goals and objectives as a member of the Medical Board are to protect and serve the people of California who are consumers of and impacted by medical care.

This will be accomplished by ensuring that the licensing process is fair, effective and efficient so that all individuals receiving a license to practice in our state are qualified to provide care that meets the standard of care. This will benefit consumers to ensure there is an adequate supply of physicians to meet the increasing demand for services. It will also benefit physicians, that no bureaucracy or artificial barrier is impeding their opportunity to provide medical services in our state.

The other factor is enforcement. As a member of the board, I will strive to be sure the board is responsive to consumer concerns. I want to be sure all complaints are investigated thoroughly and efficiently. I also want to be sure all discipline is appropriate and consistent, with the primary objective to protect the public. These goals will also serve physicians, because complaints found to be without merit can be resolved quickly, so the physician can continue to provide care without a cloud of uncertainty. If the complaint has merit, appropriate discipline can be instituted promptly. If remediation is possible, the physician can more quickly resume practice providing the requisite quality of care. This will also help the consumer by retaining physicians who can be brought up to quality standards, and promptly revoking licenses from those who are a danger to patients.

An objective measure of success of the licensing process is the time from when an application is made until a decision is reached whether or not to grant a license. Another objective measure is the percentage of physicians in residency programs in California, who apply for and receive licenses when they are eligible.

A measure of success of enforcement process efficiency is the time elapsed from the time a complaint is filed until its resolution. A measure of success of enforcement effectiveness is the percentage of physicians who after a disciplinary action allowing remediation, return to the practice of medicine without further complaints.

Board Restructuring

2. I think the restructuring of the board is beneficial to better serve consumers. Combining the two divisions will improve communications within the board. Licensing and Medical Quality are really two sides of the same coin—protecting the public. The two divisions have each been assessing physicians' credentials and performance at different stages of their careers to determine if they are qualified to practice medicine in the California. It is much more efficient for the two functions to be shared by all members of the board. The two divisions may have been designed to facilitate a division of labor but have become a barrier to a more cohesive process which can be achieved by combining the divisions.
3. The proposed restructuring will result in a total of 19 members, 10 professional and 9 public members. This is an appropriate balance. There are a sufficient number of physician members to reflect the diversity of specialties and diversity of practice environments of our licensees. There are also a sufficient number of public members to reflect the diversity of our consumers. I have been very impressed by the wide range of disciplines and areas of expertise demonstrated by my colleagues on the board, both medical and public.

Public Access and Outreach

4. The Medical Board has always made being responsive and transparent to the public its highest priority. At board meetings, at new member orientation and at our strategic planning retreat, we have been directed to be meticulous in being sure all discussion and action is open and available to the public. The streamlining of minutes is only designed to make the information more accessible to the public.
5. The Medical Board is very concerned about being accessible to all members of the public including people in underserved areas and individuals with barriers to access such as cultural or language issues. The board's website has been saluted for its quality and many individuals of all socioeconomic levels now have web access. Medical Board staff participates in health fairs throughout the state to inform consumers about board services. Bilingual staff are involved in these outreach efforts. Greater dissemination of information about board services may be achieved with increased public service announcements broadcast in different languages on various stations serving diverse communities. In many developing countries, radio is a main means of obtaining information so our immigrant communities may be very comfortable with this medium.

6. The Medical Board currently posts meeting agendas and minutes on its website. The board is about to implement a plan to post all meeting materials on its site, excluding materials related to deliberations on issues that need to be discussed in closed session. This will further inform and involve the public in board meetings.

Division of Medical Quality Review of Decisions

7. The law requires the board to review and approve all disciplinary matters except Public Letters of Reprimand. The board has considered delegating uncontested stipulations for surrender of license and uncontested default decisions to the Board's Executive Director. If AB 253 passes and is signed by the Governor, allowing this delegation, I believe the board will continue to fulfill its mandate to protect the public. The parameters for delegation are very well defined and will not compromise the board's authority to oversee the disciplinary process. It will make the process more efficient by allowing members to focus more on the cases which are complex and require extensive deliberation.
8. The value of the oral argument is controversial. There is value in hearing an individual present his or her case. Sincerity and commitment can be conveyed by tone of voice and facial expression, in a way that cannot be conveyed on paper. There is a legal concern, however. New testimony that is potentially not verifiable may be introduced that was not in evidence at the hearing before the Administrative Law Judge. I would need to consult our legal counsel to determine if there is some way to hear the respondent's case without violating the rules of evidence and invalidating the hearing process, to preserve the integrity of the process.

Budgetary Issues

9. The Medical Board has been very concerned about restoring lost investigator positions and is very committed to retaining existing investigators. We are aware of the pay disparity between the board's investigators and Department of Justice investigators and realize that parity is essential to recruitment and retention of these essential people. Pay parity will be cost effective, because it is very inefficient to lose highly trained, experienced individuals. This has been a high priority at Medical Board meetings and at our strategic planning retreat. Medical Board staff assures us that progress is being made on accomplishing these goals and recommendations.

Diversion Program Issues

10. The goals of the diversion program are admirable. Retaining physicians who have a potentially treatable condition and protecting the public by close monitoring of the physicians' compliance fulfills the mandate of the board. There are, however, a lot of questions about the efficiency and effectiveness of the program. The board is eagerly awaiting the results of the diversion program audit which is scheduled to be released in June 2007. After reviewing the findings in that report, I will be better able to comment on the strengths and weaknesses of the program and suggest recommendations for improvement.
11. Formation of the Diversion Advisory Council has begun. The Diversion Committee and Division of Medical Quality (or full board if restructured) will closely monitor the work of the council. Unlike the Liaison Committee of the past, the council will have specific tasks, and will be required to prepare ongoing reports in a timely fashion. The board has many questions about the diversion program, and will be following these reports with great diligence.

Vertical Prosecution

12. Vertical Prosecution was designed to create a seamless process of investigation and prosecution by teaming a board investigator and deputy attorney general who will work together on a given case until the investigation is concluded. The implementation of the program began in January 2006. The board has been working with the Office of the Attorney General to ensure a smooth transition. There are ongoing issues which need to be resolved for maximum efficiency. The board investigators must be in proximity of the deputy attorneys general to maintain a close working relationship. There must also be pay parity with the investigators of the Department of Justice for complete implementation of Vertical Prosecution.
13. Medical Board staff has indicated a draft of the Board's report to the Legislature and Governor on the vertical prosecution model will be completed in May. The final report will be ready before the July 1, 2007 due date. The medical board staff has indicated preliminary data is favorable. The Enforcement Monitor had criticized the amount of time previously required to obtain medical records and the amount of time for a physician interview. These times have reportedly been reduced. These indicators of the efficiency of the new model are encouraging.

Frank V. Zerunyan

Medical Board Member

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Hon. Don Perata, Chairman
Senate Rules Committee
California Legislature
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Re: Frank V. Zerunyan-Medical Board of California

Dear Senator Perata:

Thank you for your letter of April 11, 2007, regarding the confirmation hearing of my appointment to the Medical Board of California (the "Board"). It is an honor and a privilege to serve you and 36 million Californians as a public member of this consumer protection Board. As you know the Board is the public's first line of defense against bad medical care. By licensing and disciplining physicians, the Board helps maintain high standards in the medical profession. I am committed to fulfilling this mission with due process and professional efficiency.

I am headed to my third meeting since my appointment in October of 2006. While I am quickly learning the necessary tools and dynamics of the Board, I must admit that I have kept an open mind and in some instances have not yet formulated an opinion on a given topic. Therefore, I will endeavor to respond to your questions to the best of my ability reserving my right and judgment to opine at a future date on some of the issues that form the basis of your questionnaire.

Senate Rules Committee

MAY 01 2007

Appointments

1. *What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your tenure? How will you measure your success?*

I bring to the board a diverse background as an elected official, lawyer and business owner. My primary goal is to represent the people of California first and foremost. While the Board determines policies regarding physician licensing and enforcement, initiates regulations and contracts, provides direction to, and determines the priorities for management and civil services staff through the Executive Director, its most important goal and mandate is the preservation of its mission as a consumer protection agency. I am committed to that goal.

My purpose, using my professional tools, is to make that goal more effective and efficient. There are several areas of efficiencies that I would like to review and comment during my tenure on the Board. By way of example, I want to mention at least one: Oral argument. I will elaborate as I respond to more specific questions below.

As a visible Board it is not hard to measure our success by simply but carefully listening to all of our constituencies. In this regard, I believe the consumers using our services, The Center for Public Interest Law, California Citizens for Health Freedom, the California Medical Association are invaluable resources for the Board just to name a few.

2. *How will the proposed restructuring impact the operations or effectiveness of the board? In your opinion is it necessary to combine the two divisions?*

The Board has debated the restructuring since my appointment in late October and as I understand it since early last year. The intention of the restructuring is to primarily make the Board a more cohesive unit and bring efficiencies that we lack today as part of two Boards in one. With a two division structure members like me in the Division of Medical Quality ("DMQ") have very little opportunity to learn and contribute in the Division of Licensing ("DL") and vice versa.

3. *The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?*

The Board balance will be further enhanced by the proposed restructuring to reduce the size of the Board to 19 members. Currently the Board is structured to have 21 members, 12 physicians and 9 public members. The proposed structure will eliminate 2 physicians and retain all public members. The restructured Board shall have a simple physician majority of one (10 physicians and 9 public members). I do not believe that this structure will jeopardize the public purpose of the Board.

4. *At a recent meeting, the board indicated that it intends to reduce the length of its published minutes by recording only action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?*

This again is a topic discussed and implemented for the purpose of making the Board more effective in its operations. I understand that minutes were so detailed and in some instances verbatim that it made it difficult to give context during the approval process of the minutes. As a public official I know it to well that a word or two may make a huge difference in the reporting of particular Board member's comments. In order to avoid hours of review and comment at the Board meetings, a more streamlined process is very appropriate. I am not aware of any plans to limit the minutes to action items only. I am confident that staff will report action items as well as relevant topical discussion minutes.

5. *How does the board ensure that members of the public—including those with limited English proficiency—can participate in or access information about its activities? What more could the board do to ensure that consumers are aware of the board and the important role it plays?*

This is a very important topic in our great state of California. Our state is enriched by the diversity and cultures brought to California from the four corners of our world. I have the honor and privilege to chair the largest international Bar Association of Armenian decent in the world. During our Annual conference last week in Santa Monica, California, my good friends Justices Baxter and Moreno of the California Supreme Court focused on our rich culture in our great state. Justice Moreno gave specific examples of the benefits that diversity provides in the judiciary today. We must provide the tools of participation and unfettered access to diverse populations in California. While our Board meetings are held at locations easily accessible to Californians and our at least bi-lingual staff participates in health fairs throughout the state to inform consumers about the services provided by the Board, we can do better with the help of the internet and our award winning web site. I believe one of our very able new public members suggested the translation of pertinent outreach information and data on our web site. I support her efforts not only in Spanish but other languages consistent with the demographics of our state.

6. *The Medical Board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavioral Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the board considered posting its meeting materials online?*

Yes, we have. It is my understanding that the Board will be posting its public agenda and the corresponding materials starting immediately.

7. What, if any, do you believe the board's role should be in reviewing disciplinary matters?

This was one of the topics I discussed publicly at the Board upon my arrival. As a lawyer I see no value in reviewing what I perceive to be uncontested decisions in form of stipulations presumably between informed parties. Who am I to substitute my judgment for the judgment of a physician who wishes to surrender his or her license? Why can't our Executive Director be delegated the authority to act on a default just like a court clerk who administratively enters default for failure to participate in the process after proper notice and service? AB 253, if it becomes law, will allow that delegation of authority to our Executive Director and reduce DMQ Board review time substantially. This along with other substantive changes will make the smaller and restructured Board more effective and efficient.

8. What is your opinion about the value of the oral argument process?

Oral argument is a creation of Government Code Section 11517(c)(2)(E)(ii) regarding "contested cases" where an agency has rejected a proposed decision. Under the statute the entire record is then made available to the parties. The statute goes on to state that "The agency itself shall not decide any case provided for in this subdivision without affording the parties the opportunity to present **either oral or written argument** before the agency itself (emphasis added). However, the Board does not have that discretion under Business and Professions Code Section 2335(c)(4), which provides that "the division panel...**shall** afford the parties the opportunity to present **oral argument** before deciding a case after a nonadoption of the administrative law judge's decision" (emphasis added).

It has been argued to me that the benefit of oral argument is that it gives DMQ members the opportunity to observe and hear a respondent when deciding whether to modify the penalty imposed by an administrative law judge. The question is whether the benefit is outweighed by a potential miscarriage of justice by virtue of allowing non sworn testimony and in most cases the introduction of new evidence which everyone agrees is highly irregular in our system of justice. Hence, the creation of the task force that you refer to in your next question.

9. At a recent meeting of the board, a two-person task force was created to consider the oral argument issue. As one of the members of this task force, please update the committee on the status of these discussions.

My very able colleague and respected Board member Cesar Aristeiguieta and I will be meeting this week with several stakeholders to discuss the entire oral argument process which as you know is a very serious topic of criticism in the Enforcement Monitor's Report. We have several concepts that my colleague and I discussed. With the input and advice of our stakeholders, I am confident that we will arrive at a consensus about revamping the oral argument process.

10. What is the status of these recommendations? What role do board members play in determining whether suggested reforms are implemented?

I understand that our Diversion Program Audit will be forthcoming June 12, 2007. I have not yet focused on this issue and would like to wait until after the Audit to make any recommendations. Suffice it to say that I am certainly interested in the topic and we must act deliberately in an area where we allocate and spend most of our budget.

11. Understanding that the audit is forthcoming, do you have recommendations for improvements to the diversion program? If so, please indicate them.

See my response to question number 10 above. In addition, however, the Board has decided to create a Diversion Advisory Council ("DAC") monitored by the Diversion Committee of the Board and the DMQ. The Diversion Committee will be responsible to delegate tasks to the DAC and will ensure that those tasks are completed in a timely manner.

12. Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?

See my response to question number 11 above. As I understand it, unlike the Liaison Committee, the Diversion Committee will be directly responsible for the operations and progress of the DAC.

13. Please update the Committee on the implementation of the vertical prosecution program. What steps has the board taken to begin implementation of the program? Are there additional efforts you believe are necessary for successful implementation?

The Vertical Prosecution ("VP") model was implemented in January of 2006, months before I was appointed to the Board. While I support the concept and fully understand the need to have a lead prosecutor working with an investigator of the Board make investigative and prosecutorial decisions from the inception of the case to obtain and preserve crucial evidence, logistical impediments remain in the process. To my direct questioning during the last Board meeting, a well intentioned supervising Deputy Attorney General ("DAG") informed me that the vast geography of the state creates difficulties in locating DAGs in Board offices. To insure a close working relationship, VP shall have to require the co-location of our investigators with DAGs. We must also deal with pay parity issues between the two agencies to make sure that we have a cohesive unity working together under a true VP model.

14. *What is the status of the board's report to the Legislature and Governor on the vertical prosecution model? Please describe any preliminary findings.*

I understand that a draft report will be completed early May and a final report shall be sent to the Governor and the Legislature on or before July 1, 2007. We have heard about some preliminary improvements in the time of obtaining medical records and the amount of time for physician interviews. These and other preliminary reports are very encouraging.

I thank you again for your questions and I look forward to my continued service on the Board should I be confirmed by the Senate. In the meantime, should you have any questions or comments, please do not hesitate to contact me at (310) 971-5219 or fzerunyan@cox.net

Respectfully yours,

Frank V. Zerunyan

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April 17, 2007

Don Perata, Chairman
Senate Rules Committee
California Legislature
State Capitol
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Senate Rules Committee

APR 26 2007

Appointments

Dear Senator Perata:

In response to your letter of April 11, 2007 requesting written responses to a number of questions. The following is submitted for your consideration. First, however, I wish to thank you and the Senate Rules Committee for considering my confirmation. Furthermore, my updated Form 700 (Statement of Economic Interest) was submitted several weeks ago. However, in response to your letter, I am including another copy. The following responses are provided in the order given in your letter.

Statement of Goals

1. *What are your goals and objectives as a member of the Medical Board? What do you hope to accomplish during your next term? How will you measure your success?*

Response

The mission of the Medical Board is primarily to protect health care consumers through proper licensing and regulation and through the vigorous enforcement of the Medical Practice Act. During the coming four years it is my goal to expand consumer awareness of the Medical Board's function and to ensure easy accessibility to the board and its staff by health care consumers in our state. To enable proper enforcement of the Medical Practice Act it is my goal to work toward retention of Medical Board investigators and replacement of the many investigators who have moved on to other employment. To accomplish this I hope to work with members of the Legislature to upgrade the salaries of board investigators to the level of investigators in other state agencies. It is my hope that our staff will actively undertake a proactive search program to identify candidates to fill the positions that have been vacated as well as those eliminated prior to the hiring freeze in 2001 to 2004. It is also my goal to lead an effort to assess the effectiveness of our current licensing program, its responsiveness, user-

Senate Rules Committee

APR 26 2007

Appointments

April 17, 2007

friendliness and its efficiency. Any deficiencies found in such an internal audit should be followed by rapid correction. It is also my goal to bring the board more effectively into confronting the issues surrounding delivery of healthcare to the underserved. Expansion of the Steven Thompson Loan Repayment Program together with the development of new creative programs to ensure that high quality healthcare is provided to all people in California has been and will continue to be an important objective. In order to succeed in these areas formal outcomes assessment must be documented. For example, assessment of the public's knowledge and accessibility of the board may be reflected by surveying those who make complaints to or requests of the board in order to determine if in fact accessibility and responsiveness were appropriate. Retention and expansion of support staff and investigators can be measured through quarterly surveys in comparison of the number of new and old personnel. Expansion of the number of physicians providing care to underserved patients through the loan repayment program and the number of retired physicians working in conjunction with these younger physicians to provide healthcare to the underserved can best be measured by requiring annual reporting of the number of patients and patient visits at the free clinics supported by these programs and periodic assessment of the quality of care utilizing standardized instruments already in existence.

2. *What have been your most significant accomplishments as a member of the Medical Board?*

When I joined the board I was critical of many of the activities of the board and what appeared to be inadequate protection of the interests of consumers. Approximately one year after joining the board I became President of the Division of Licensing and one year later I became President of the Medical Board of California. It was apparent to me that the public did not have adequate access to the board and relationships with the press as well as with members of the public were poor. In order to address those problems I established a public education committee that provided communication and outreach to the public, the press and to physicians. I also established an ethics committee to better define the role of the Medical Board in promoting ethical behavior among physicians.

The board has been charged with certifying international schools that train physicians out of the United States who may then apply for licensure in California. Remarkably once the Medical Board of California certified any school outside of the United States that certification was in place indefinitely. Even though ten or twenty years could pass, there was no effort to re-evaluate the quality of the schools providing approximately 20% of physicians licensed in California. Accordingly, I established the recertification committee that sponsored a requirement that offshore schools now are recertified at the same intervals that recertification takes place in schools within the United States.

Because the board had not addressed issues related to alternative medicine and in fact had no formal program to oversee, promote or regulate alternative approaches to health care, I established a non-conventional medicine committee.

The issues relating to midwives in California had not been addressed and accordingly I established a midwifery task force which together with the help and support of leaders in

April 17, 2007

midwifery community, representatives of the public and the medical profession has now resulted in a new and better mechanism for regulating the work of midwives in our state.

The division of licensing was restructured and we converted a slow process to a very efficient and far more rapid process. The average time for issuing a license was reduced to one third of the time previously needed.

For many years the Medical Board of California had been equated solely with regulatory, police or even Gestapo-like activities. However, there had been no effort to acknowledge the many significant accomplishments of California physicians for the benefit of the people of the state. Therefore, I established a committee to recognize outstanding physicians and to acknowledge their dedication to health care, especially to the underserved in our state. Since that time physician recognition awards have been given to many physicians who have uniquely undertaken exemplary efforts to provide good care to the underserved.

I was especially concerned about the lack of access to health care for so many people living in our state. Although the board was charged primarily with a regulatory function, it was clear that many members of the public as well as members of our profession and members of the legislature look to the board to address the lack of access to the health care system for millions of people living in our state. With the health reforms proposed, it is estimated that over the next decade, California will need an additional 17,000 doctors over and above the 1,000 doctors graduating each year from California medical schools. The nursing shortage is even greater. Currently, we lack 20,000 nurses. If we are to provide care to all Californians, the nursing shortage will more than double. To confront these issues, I wrote and proposed a model, which could be scaled up to confront the problem.

I proposed a new program that would establish an educational loan repayment program in exchange for care to the underserved. With the help of the late assembly member Marco Firebaugh, AB982 was developed. The support of the California Medical Association was obtained. The program recognizes that today young physicians usually enter medicine because of a desire to "give back." Economic incentives such as those of the past no longer exist. However, the average medical resident when completing training in California has an educational loan debt of \$120,000. Furthermore, before seeing his or her first patient a large malpractice premium must be paid. Thus, if a young physician wanted to give back, most could not afford to do so. AB982 essentially said to young physicians that utilizing non-tax dollars, the State of California will repay educational loans up to \$105,00 over three-years and will enable a physician to earn an income larger than made in training but less than can make in private practice, if in exchange the physician will agree to provide health care to underserved patients for a three-year period. This became the Steven Thompson physician educational loan repayment program. It now supports hundreds of physicians throughout our state who are providing health care to the underserved. Each year, since its inception four years ago more than five times as many qualified applicants have requested entry into the program as we have had funds available.

SB450 recognizes that many doctors in California retired at a younger age than anticipated because of unhappiness with a dysfunctional healthcare system. If they wanted to "give back" the law required the repayment and renewal of expensive license fees and the

April 17, 2007

maintenance of malpractice coverage. SB 450 offers retired physicians a special license without charge that can be used only to provide totally free care. Three thousand doctors have signed up for this in the past two years and are working in the same nonprofit clinics side-by-side with the young physicians who work under the educational loan repayment program.

AB2342 recognizes that physicians providing care to the underserved without charge still must pay costly malpractice insurance. This bill will provide coverage at a much lower premium than usual for physicians providing care to the underserved in these programs. The premium is sufficiently low to make it affordable to the free clinics.

Physicians working under the programs need education in public health issues and also need sub-specialty consultation. Under an agreement with the California Health Foundation Telemedicine and Health Centers and the University of California at Davis telemedicine equipment has been installed at 36 nonprofit clinics and has been connected initially to the UC Davis Medical Center and eventually will connect to all University of California Medical Centers enabling academic clinician educators to provide lectures via telecommunication to all clinics and also allow primary care physicians in the free clinics to consult with academic sub-specialists. This entire program was established without charge.

The need to provide the underserved with care from nurses, physician assistants, dentists, medical technicians and pharmacists is also great. Accordingly, similar educational loan repayment programs have been developed for these health care providers.

The California Health Corps having grown to significant size in three years requires administrative coordination. AB920 moves the entire program described above into a state owned 501C3 nonprofit organization. The Health Professions Education Foundation (HPEF). This is a unique "hybrid" of a nonprofit designed to accept donations from foundations and individuals as well as from license fees and from the state budget. Over 20 million dollars have been donated or allocated to HPEF to administer the programs of the California Health Corps. Although I remain a member of the Executive Committee of the Medical Board of California (MBC), I also chair the Board of Trustees of HPEF. This new board is in its first year of operation.

Thus using a series of legislative initiatives (AB982, SB450, AB2342, AB920) this program now staffs free clinics with retired volunteer doctors, loan repayment doctors, nurses and allied healthcare professionals. It provides consultative and educational telemedicine with University of California sub-specialists and coordinates malpractice insurance for the California Health Corps. This is a unique model now serving thousands of underserved Californians. The model will be the object of an outcomes assessment program to prove or disprove its effectiveness. If the model is successful, it is structured to be scaled up to involve the entire state and is already being evaluated as a model to be instituted in other states.

After I ended my term as president, I became a member of the executive committee in the Medical Board of California and I am currently serving in that capacity. My passion has been not only to expand our programs for consumer protection but also to expand efforts to provide better access to care for all people in our state. To support this I personally raised one million

April 17, 2007

two hundred thousand dollars in private donations to enable the development of the California Health Corps. The California Health Corps is becoming a model not only for expansion within our state but also for the development of comparable programs in other states. In the future I hope we will be able to develop programs that will provide support for hospitalization and for drugs for those currently underserved. This will require creative thinking and support from the leaders of the health care community, but I am confident that in the coming four years it can be accomplished.

Board Restructuring

3. *How will the proposed restructuring impact the operations or effectiveness of the board? In your opinion is it necessary to combine the two divisions?*

Response

The proposed board restructuring as described in AB253 (Eng) is designed to make the board more efficient in managing its workload and to provide a better quality of responsiveness to health care consumers. Having a separate division of quality and a division of licensing allows board members to become highly specialized in their respective activities. Board members through experience acquire a fund of knowledge that allows them to be consistent and appropriate in responding to issues regarding licensing or quality enforcement. Bringing the two divisions together as a single board, however, will allow members of the Division of Licensing to become knowledgeable and effective in managing, enforcement and regulation and will allow members currently in the Division of Quality to learn about and become competent in matters of licensing. Currently, members of one division are not adequately informed about the activities of the other division since the meetings run concurrently. The development of a single board with two major committees, one dealing with quality and one dealing with licensing, but with all members rotating in each area will preserve the advantages of specialization but will also allow for an equitable distribution of the workload and a broader participation in decision making in each of the major areas. This restructuring will allow all members to be familiar with all issues affecting the board. With regard to the question as to whether it is "necessary" to combine the two divisions. Although it is not "necessary" since the divisions are currently functioning, I do believe it is more advantageous to move to a single board. Doing so will provide a better quality of consumer protection and will allow for broader participation in the making of important decisions.

4. *The Medical Board has more professional member representation than most other boards. How would you describe the appropriate balance between professional and public members? Will the proposed restructuring achieve this?*

Response

I believe that it is in the interest of the health care consumer that there be an approximately equal number of physicians and lay members on the board. The physicians as well as the lay members have as their primary responsibility the protection of the health care consumer. It is true that physicians bring to discussions important insight as well as scientific knowledge that aid greatly

April 17, 2007

in the decision-making process. Lay members properly represent the interests of consumers, as should the physician members, but often also bring to the decision-making process a broader view of the interests and needs of patients. An approximately equal balance of the two groups would ultimately serve to meet the mission of the board. I believe the restructuring as described in AB253 (Eng) will accomplish this. The current board is composed of 12 physicians and 9 public members. The proposed restructuring will result in a board of 10 physician members and 9 public members.

Public Access and Outreach

5. *At a recent meeting, the board indicated that it intends to reduce the length of its published minutes by recording only action items. Please explain the reason for this decision. What level of detail in meeting minutes do you believe is appropriate?*

Response

The reason for the decision is to include not only action items but also relevant discussion. There is no proposal to include only action items. In the past, board minutes were exhaustive and often included almost verbatim discussion comments. We want to streamline and accurately summarize all relevant discussion.

6. *How does the board ensure that members of the public—including those with limited English proficiency—can participate in or access information about its activities? What more could the board do to ensure that consumers are aware of the board and the important role it plays?*

Response

Assuming that funding could be made available, board documents utilized by the public or intended to be read by the public should be published in English as well as in other languages (e.g., Spanish, Chinese, Vietnamese). Similarly, the board's website should offer interpretation in other languages and finally the open access telephone line utilized by the public should have available translators so that questions or requests made by the public can be easily handled.

Board meetings are held in easily accessible metropolitan areas throughout the state. Furthermore, bilingual staff member participate in board outreach programs and health fairs throughout the state.

7. *The Medical Board posts meeting agendas and minutes on its website; meeting materials may be separately obtained upon request. Other boards, such as the Board of Behavior Sciences and the Board of Pharmacy, post their meeting materials on their websites, in addition to agendas and minutes. Has the board considered posting its meeting materials online?*

April 17, 2007

Response

The board has discussed posting its meeting materials online. This will be done starting this month. I strongly favor full disclosure in the minutes of all matters discussed at the public meeting and accessibility to well-written minutes on a multilingual website.

Division of Medical Quality Review of Decisions

8. *What, if any, do you believe the board's role should be in reviewing disciplinary matters?*

Response

In our proposal the Executive Officer would only oversee stipulations for surrenders of licenses and uncontested defaults but not all stipulations. I believe that the board should review all disciplinary matters. In fact the law requires that this board review and approve all disciplinary matters. All decisions other than stipulations for surrenders and uncontested defaults should be reviewed and the decisions determined solely by members of the board.

9. *What is your opinion about the value of the oral argument process?*

Response

Since under the law board decisions must be made based solely on material in the written record, oral arguments lose their importance. During oral arguments an effective speaker may sway the decision-making process, but should not bring in new material that is not already in the record. In order to be objective and fair, a board member's decision should be based solely on that material in the written record. Oral arguments are not sworn testimony. Too often oral arguments have been used inappropriately to bring in new evidence that was not part of the written record of the original hearings.

Budgetary Issues

10. *What is the status of these recommendations? What role do board members play in determining whether suggested reforms are implemented?*

Response

The board including myself has strongly urged that vacated enforcement positions be filled and that the salaries of board investigators be upgraded to the level of investigators in other state agencies. Restoring the abolished positions is important but currently we have been unable to fill positions vacated in recent months because of salary issues. Our first step must be to seek legislation that will upgrade salaries of board investigators in order to make our positions competitive with those in other agencies. Once salary levels have been improved then it would be important to fill all vacated positions and to restore abolished positions.

April 17, 2007

Board members should oversee the implementation of board recommendations. Regular reporting should be required. The problem here is not that implementation has not taken place, but rather that salaries are so low that we are unable to attract candidates for vacated positions much less find people to fill abolished positions.

Diversion Program Issues

11. Understanding that the audit is forthcoming, do you have recommendations for improvements to the diversion program? If so, please indicate them.

Response

I would prefer to await the results of the audit. If it reveals major deficiencies, then I believe the diversion program would be best managed by a private organization under contract to the board or to the department. A professional private organization with broad experience and background in diversion may do a far better job than the board in managing the day-to-day activities of the diversion program. However, it should be the board's responsibility to assess the effectiveness of any contractor and to assure that the contractor is running the diversion program appropriately and that outcomes are carefully measured and reported.

12. Please update the committee on the status of the newly proposed Diversion Advisory Council. How will the board ensure that the Diversion Advisory Council does not face the same criticisms as the previous liaison committee?

Response

The proposed Diversion Advisory Council is a small group of experts who are brought together to advise the board on issues related to diversion. The new liaison committee is small enough to be easily managed. In contrast to its predecessor, this council will have a specific charge and will be required to deliver regular reports, recommendations and to oversee an assessment of outcomes. The Council will meet with public notice in contrast to the previous Liaison Committee. This Council will be required to make quarterly reports to the Diversion Committee unlike the Liaison Committee this Council will work on programs and tasks assigned by the Diversion Committee.

Vertical Prosecution

13. Please update the Committee on the implementation of the vertical prosecution program. What steps has the board taken to begin implementation of the program? Are there additional efforts you believe are necessary for successful implementation?

April 17, 2007

Response

The Vertical Prosecution pilot program started in January 1, 2006. Working with the Attorney General's office, a manual has been completed. Each new complaint has been assigned to a deputy attorney general and a board investigator. The results of the pilot program are now being evaluated.

14. *What is the status of the board's report to the Legislature and Governor on the vertical prosecution model? Please describe any preliminary findings.*

Response

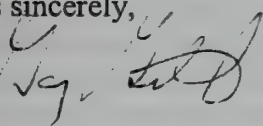
In my opinion successful implementation of a model program requires the retention and recruitment of investigators either by raising their pay to competitive levels while keeping them under the board or by moving them to the Attorney General's office where pay scales are significantly higher.

A draft report is scheduled to be completed in early May and a final report will be issued before July 1, 2007.

Preliminary data indicates that the system is achieving its goals as intended by the Legislature and cases are being prioritized and expedited, as appropriate. The time to obtain records and to complete physician interviews has been shortened. It appears on preliminary review that the total time has been reduced significantly.

If you have any concerns regarding my responses to any of the questions, please feel free to write or call me. I am committed to work with others in building this board into an exemplary body that will continue to protect the interests of consumers. It is my hope that the mission of the board can be expanded through legislation to allow the board to serve more closely in an advisory capacity to legislators and their staffs with regard to the formulation of new legislation related to health care. I also hope that the mission can be revised to enable the board to work more effectively and become more deeply involved in programs aimed at providing health care to underserved people in our state. Thank you again for considering my confirmation.

Yours sincerely,



Gary Gitnick, M.D., F.A.C.G.
Fran and Ray Stark Foundation
Professor of Medicine
Chief, Division of Digestive Diseases
David Geffen School of Medicine at UCLA

GG:lg/004318

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CHERYL BLY-CHESTER

1000 Sunrise Boulevard, 9B
Roseville, California 95661

April 30, 2007

Nettie Sabelhaus
Appointments Director
Senate Rules Committee
State Capitol, Room 420
Sacramento, California 95814-4900

Senate Rules Committee

APR 30 2007

Appointments

RE: Cheryl Bly-Chester Appointment Confirmation to the State Mining and Geology Board (SMGB).

Dear Senate Rules Committee Members:

I appreciate this opportunity to respond to questions posed in your April 12, 2007 letter regarding confirmation to the State Mining and Geology Board (SMGB). The questions posed by your committee were both thoughtful and thought-provoking. I would be happy to expand on any of my thoughts presented below:

- 1. Please provide a brief statement of your goal. What do you hope to accomplish during your term on the State Mining and Geology Board? How will you measure your success?**

Although I have a background in civil engineering, erosion control, environmental engineering and hazardous waste remediation pertinent to the SMGB's role and responsibilities, my appointment is to the Public Seat on the Board. This position is well suited to my background of volunteerism and community action organizations. One of the goals I hope to accomplish during my term on the Board is to elevate the public discourse on prioritizing the careful extraction and use of mineral resources. It is my goal to assist in creating deeper convergence of both environmental and economic interests in establishing priorities for the State of California. I would like to encourage more public participation through making the Board meetings less intimidating and therefore more accessible. In addition, as with all regulatory bodies in state service, I hope through my contributions during the deliberative process that I demonstrate my fundamental belief in: providing equal protection across California; in interpreting the legislative intent of the regulations; and in providing maximum benefit for the people of our state. Having been elected by my fellow Board Members to serve as the Vice Chair, my goal when I lead meetings is to ensure that all are afforded adequate opportunity to express themselves on issues coming before the Board. Having led two meetings thus far, I believe I am well on track with this goal.

To summarize, measures of success will be an increase in public written response and attendance at Board meetings, especially by grassroots community groups. While attendance is important, attendance without informed participation is of limited value. Therefore the second measure of success is to have active participation from all sectors of the stakeholder community.

Senate Rules Committee
April 30, 2007

Page 2

2. How do you propose prioritizing the Board's numerous responsibilities along with implementation of an ambitious strategic plan?

Although the SMGB's strategic plan may seem ambitious, it is a reflection of its responsibilities and obligations with regard to current issues and pressing needs within the mandate and mission of the Board. The Board continually prioritizes its business while recognizing its limited resources. The SMGB distributes the responsibility for recommending Board priorities among four committees: 1) The Geohazards Committee; 2) The Minerals and Geologic Resources Committee; 3) The Surface Mining Standards Committee; and 4) The Policy and Legislation Committee. The SMGB also considers the advice of the Executive Officer in keeping the agenda current and maintaining timely responsiveness to issues as they develop. When appropriate, the SMGB assembles technical advisory committees comprised of Board Members, industry specialists and stakeholders.

An Executive Officer has been maintained by the SMGB for more than a decade and no meeting has had to be cancelled due to lack of preparation or proper Bagley-Keene Act notification. The Executive Officer is not only an administrator, but is also a qualified California Registered Geologist in his own right with a great deal of experience in the mining field. The SMGB relies on Board Staff to continue to review the Board's programs, and recommend actions for Board consideration. Having limited resources requires the Board to be selective in what it pursues. The Board Staff receives assistance from the Department of Conservation including the Office of Mine Reclamation (OMR) and the State Geologist's Office.

As a Lead Agency, the Board will likely acquire two additional staff (funded through the administrative fees collected under SMARA in its Lead Agency capacity) and continue to receive dedicated staff assigned to the Board by the Department. New responsibilities being given to the SMGB (e.g. vested rights determination hearings directed by the courts and pending legislation such as the groundwater basin monitoring program of SB-178) require additional budget and staff. The requests for these resources are currently in process. In the mean time, the SMGB continues to use its resources wisely in setting its priorities.

Senate Rules Committee
April 30, 2007

Page 3

3. What role should the SMGB play in seeking balance between local control of land use and increasing statewide need for aggregate?

The primary role of the SMGB within State Government is to carry out the legislative intent of the laws under its jurisdiction for the benefit and equal protection of the people of the state. With regard to seeking balance between State and local government control, the role of the State as spelled out by the legislature is to protect mineral resources that are not currently being mined from irreversible land use that will preclude their availability to future generations. One role that the SMGB serves is to encourage wise land-use policies by local governments. Specific steps that can be taken are to first promote the dissemination of the information prepared by the Department of Conservation on permitted aggregate resources available for infrastructure improvements and to emphasize the need to increase the permitted availability. Second, the SMGB should continue to promote the completion of the State project to map mineral resources so that local governments have available to them detailed delineation of lands where potential resources reside. Third, the SMGB needs to solidify its interpretation of the legislative intent with regard to Lead Agency (often local governments) allowing encroachments on designated mineral resource land. The legislation does not currently clearly identify consequences for encroachment on such lands. The CEQA and NEPA processes provide the opportunity early on in the land use planning process to identify such potential encroachments. The SMGB must evaluate how to allocate limited resources to provide for inserting stronger protections into the environmental mitigation language of the EIR and EIS process. Currently the SMGB does not have the resources required to review every CEQA and NEPA document, so the key will be in providing the information to the Lead Agencies and educating them on their role in protecting the access to the minerals that will help build up the State's infrastructure.

One way that the SMGB can assist local governments in communicating the benefit of local aggregate mining is to appeal to the common interest of Californians to optimize environmental responsibility while developing and maintaining our infrastructure. The Department of Conservation's recently-developed aggregate resources maps clearly make the point that local sources of aggregate are critical to lowering construction costs and that the average cost of a ton of aggregate doubles when hauled a distance of 35 miles (see the Los Angeles area aggregate map available on the SMGB website). The SMGB can elevate the dialogue by advancing the concept of *entrained energy*. Entrained energy is how much energy goes into a product (in this case a ribbon of highway) from beginning of accumulating the components all the way through to end use. The entrained energy not only includes the energy to build the highway, but also the energy to extract the raw materials and to transport the materials to

Senate Rules Committee
April 30, 2007

Page 4

the batch plants and then to the construction site. Environmental costs in terms of land restoration or deteriorated air quality are also part of entrained energy. With this in mind, reducing entrained energy costs serves the common interest of industry, the environment, and the state in reducing energy costs in terms of fuel prices and also in terms of reducing greenhouse gas emissions. Minimizing transportation of sand and gravel by locating the excavation pits near the end use suits both economic and environmental interests.

4. Can you elaborate on the problem of local Lead Agency deficiencies in mine inspections?

The SMGB has been faced in recent years with taking over Lead Agency responsibilities from counties and municipalities that have not demonstrated competency or willingness to uphold regulatory standards in overseeing the mining operations under their jurisdiction. Lead Agency deficiencies are not limited to inspections, but also include failure to adjust financial assurances annually according to the operational output of the mine. This creates a burden for the State in terms of determining the status of the mine or the intention of the operator to continue or resume operations for Interim Management Plan (IMP) applications.

Poor Lead Agency performance is an overall disservice to the industry, the community and to the people of the State. When ignored at the onset, site-specific issues become large and costly problems over time. As local budgets are squeezed, this government function loses priority standing. Engineering and other technical expertise within the local government tend to be diverted to more urgent public works projects. Part of the problem in conducting mining inspections is the lack of dedicated resources by the Lead Agencies and the lack of uniformity of the process in administering consequences when there has been a failure to act responsibly in their Lead Agency role.

The SMGB currently acts in a Lead Agency capacity and is in the review process to make a determination about assuming Lead Agency status from Santa Clara County. In that role, the SMGB offers to other Lead Agencies an example of how the Lead Agency role is to be performed providing for better understanding of the intended administrative process under SMARA. Through the SMGB-guided standardization and conventions, local Lead Agencies become more aware of what is expected of them. Field inspection programs by the State are reviewed in public meetings so that both accomplishments and violations by the mining operators become a matter of easily accessible public information. Because of the Board's attention to this issue, some Lead Agencies (Tulare County, Inyo County, among others) are taking note and trying to improve their overall performance.

CHERYL BLY-CHESTER

1000 Sunrise Boulevard, 9B
Roseville, California 95661

Senate Rules Committee
April 30, 2007

Page 5

The public forum also offers an opportunity for stakeholders to address their concerns about mining operations. In recent meetings regarding the State's pending deliberations over whether to assume Lead Agency responsibilities over Santa Clara County mining operations, the SMGB's attention to deficiencies was drawn through the diligent efforts of the grassroots community groups. The public hearing process, although not complete for this case, has highlighted the importance of the role of the Board in providing a forum for public participation.

I have faxed the requested copy of my updated Form 700, Statement of Economic interests on April 20, 2007 and trust that you received it. I am dedicated to serving to the best of my ability on the State Mining and Geology Board and look forward to completing the confirmation process. Please contact me at your convenience if you have any questions regarding the information provided.

Sincerely,

Cheryl Bly-Chester

[The text in this section is extremely faint and illegible. It appears to be a multi-paragraph document, possibly a letter or a report, with several lines of text visible across the upper and middle portions of the page.]

1. *Please provide a brief statement of your goals. What do you hope to accomplish during your next term on the State Mining and Geology Board? How will you measure your success?*

My earlier years of service on the SMGB have focused on the adequacy of reclamation plans and financial assurance instruments. During my next term I am eager to focus on:

- a) Availability of aggregate resources. It is only in a few of California's market areas that aggregates – rock, but more importantly sand – are available in quantities adequate to meet current and prospective demand. While there are generally adequate rock and sand in the ground, they cannot be extracted due to a lack of permits. The SMGB needs to focus more attention on working with cities and counties to include meaningful mineral management elements in their General Plans, and ensuring that appropriate extraction-related opportunities are reflected in the agencies' zoning ordinances.
- b) Identification and classification of mineral resources. Frequently commercial-grade aggregates are lost to prospective mining by the overlying land being converted to an incompatible use. In many cases this occurred because the local agency was not aware of the quality of the region's mineral resources. The California Geological Survey is charged with assessing and classifying mineral resources. The SMGB needs to work more closely with the Director of the Department of Conservation and the State Geologist to elevate the importance of this function. Where the state formally designates mineral deposits the prospects of their being preserved for future extraction is substantially enhanced.
- c) Redress of citizen grievances. Most local agencies do an effective job of considering and resolving citizen concerns over the impacts of mineral extraction activities. In a minority of communities, however, the policy makers are less attentive to legitimate and substantiated public concerns. In those situations the SMGB can provide an important forum for local citizens. By interacting with the local enforcement authorities, and in holding public hearings where necessary, the SMGB can invigorate local oversight functions.

2. *What have been your most significant accomplishments as a member of the Mining and Geology Board?*

When I joined the SMGB several years ago it was a moribund body, taking little initiative, exercising no independent thought, and content to closely follow directives from select special interest organizations. Upon becoming Chairman I urged, and the Board unanimously agreed, to pursue two specific objectives: 1) to work with local cities and counties to ensure that reclamation plans were more consistently and widely adopted throughout the state, and that these plans be substantive and current, and 2) that the reclamation plans be accompanied by financial assurance instruments in an amount adequate to provide for restoration of disturbed properties. Requirements of the Surface Mining and Reclamation Act notwithstanding, it was only by the rare exception that local

agencies required financial assurance instruments in amounts adequate to protect the community and the agency from the environmental damage and disruption resulting from unreclaimed or abandoned mines.

The record of local agencies is now, several years ago, dramatically different. Local agencies and affected communities can generally be confident of a clear vision, no matter where they live in California, that an effective reclamation plan communicating a clear vision of post-mining land use has been adopted. More importantly, if a mining operator does not implement the reclamation plan, a bond or other financial instrument in adequate amount is now available to provide the local agency with a mechanism and funds to direct the closure and restoration of the property. The surrounding community can be confident that the land will be converted into a beneficial post-mining use.

3. *The board has a wide-range of responsibility but only two staff positions. How do you propose prioritizing the board's numerous responsibilities along with implementation of an ambitious strategic plan?*

Although the SMGB has a very small staff of two to three persons, it works in partnership with the vastly larger Department of Conservation. The SMGB must encourage its Executive Officer to be an effective ambassador and liaison to the Director of Conservation. Where the two leaders hold or can create a common vision, they can prioritize issues and direct that each of their staffs work toward a common objective. Where the SMGB and DoC work as partners, the SMGB can leverage its small staff into a de facto large staff.

Where the constraints of limited staff resources unavoidably limit the ability to focus on an array of issues, the SMGB should consider these program objectives of overriding importance: 1) provision of adequate mineral resources to support the California economy and the state's infrastructure demands; and 2) implementation of the Alquist-Priolo Act and Seismic Hazard Mapping Act, by continuing to locate and update the state's maps identifying earthquake faults, landslides, lands subject to liquefaction, and other natural hazards which threaten the public safety.

4. *What role should the board play in seeking a balance between local control of land use and an increasing statewide need for aggregate?*

It would be easy to offer some platitudes about the need for balance between state and local oversight of mineral development. It would be more honest, however, to state unambiguously the perspective that California's system for permitting the extraction of mineral resources is severely unbalanced. Unique among states elsewhere in the country, cities and counties in California have unfettered control over permitting of mines. Elsewhere in the United States there is some level of state permit authority, to ensure that the public's need for aggregates and other economic minerals is not compromised by sometimes narrow neighborhood or community perspectives.

The SMGB should and will continue to use its “bully pulpit” with local agencies to encourage and educate about the significance of minerals to the state’s economy. The Board will highlight successful and effective reclamation practices, to demonstrate that mining operations need not be a blight upon the community. In the final analysis, however, without a legislative solution – that is – without providing state authorities with a meaningful and impactful role in the permitting process, the current imbalance of permit authority will continue and the state’s ability to predictably ensure adequate mineral supplies will be threatened.

5. *The board has previously noted that a number of local agencies have not been conducting the required inspections of mining operations under their authority. Can you elaborate on this problem and provide any proposed strategies for ways in which the board can ensure that these required inspections do occur?*

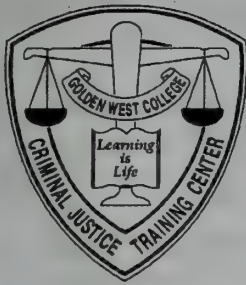
The SMGB has worked with the Department of Conservation, utilizing four different types and levels of intervention with local agencies failing to conduct mine inspections. The first is the simplest – reviewing mine reporting records, and contacting, by letter and telephone, those agencies with inconsistent reporting records. The Board has found that in more than half of the cases this contact is adequate to stimulate the agencies’ inspection programs.

The effectiveness of contacting local agencies is enhanced when combined with a state-sponsored training program. The SMGB has found that in many cases the local agency does not conduct inspections due to a lack of expertise in the techniques of mine inspection. The Department of Conservation has done a proactive job of offering training programs throughout the state, and has received well-attended and enthusiastic participation from local agencies. Staff of the SMGB will continue to participate in these training sessions.

An elevated level of oversight is achieved by scheduling public hearings in the jurisdiction of the agencies failing to conduct inspections. Following research by the SMGB or Department of Conservation into the local agency’s inspection records, the public exposure and media attention created by prospective hearings is generally adequate to cause the local authorities to energize their inspection efforts.

Finally, where a few recalcitrant agencies do not respond to other overtures, the SMGB has and will continue to consider the more profound step of taking over lead agency authority from the city or county. While such a takeover does not involve permitting authority, the notoriety and embarrassment of such a potential action is, in all but the most extreme cases, adequate to cause the resumption of local inspections and more effective oversight.

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April 17, 2007

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Ron Lowenberg,
Dean/Director

Senator Don Perata
Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento CA 95814

Senate Rules Committee

APR 23 2007

Dear Senator Perata:

Appointments

Thank you for taking the time to communicate with me regarding my pending confirmation as a member of the Commission on Peace Officer Standards and Training. As a former appointee and chairperson, and as a present member of the Commission, I sincerely believe I understand the importance of serving on this very important Commission. My response to the Senate Rules Committee questions follow:

GOALS

1. *Please provide us with a brief statement of your goals. What do you hope to accomplish as a member of the commission?*

My goals for the Commission are guided by the P.O.S.T. Strategic Plan entitled *Making a Bold Adjustment*. This Plan is very comprehensive identifying many goals and objectives that are critical to advancing the vision, mission, and values of the Commission. The Commission adopted its first Strategic Plan in 1997. Since that time, the plan has been revised and updated every two years. It reflects input from various law enforcement stakeholders to include chiefs, sheriffs, trainers, law enforcement labor, law enforcement professional associations, Commissioners, and POST staff.

Specific to my goals I would identify the following as the most important; (1) enhance selection and training standard with an emphasis on recruitment and retention of quality candidates, (2) maximize training delivery strategies by making the best use of available technologies, (3) emphasis POST's role as a service provider to local law enforcement organizations and educational institutions that provide public safety training, and (4) re-enforce strategies and practices that make the best use of the resources of the Peace Officers Training Fund.

Wes Bryan, President

Kenneth D. Yglesias, Ed.D., Chancellor

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BACKGROUND

2. *Please spell out the role the commission is playing to help departments recruit qualified candidates. Do you see a wider role for your agency in publicizing the need for police personnel?*

This is a work in progress. For sometime now, the crises of recruitment and retention of quality law enforcement personnel have been the focus of POST and the vast majority of California law enforcement organizations. At the last POST Long Range Planning Committee meeting staff reported on the progress of Strategic Plan objective C.6, which deals with the development of a comprehensive plan, which continues to deal with this most critical issue. I believe it is critical that POST continue to support local agency recruitment efforts through recruitment workshops, best practices research, weaving the theme of recruitment and retention into as many POST programs as possible, and promote regional testing centers to reduce redundancy and to provide a larger candidate pool for participating agencies.

My agency, a regional criminal justice training facility, has been directly involved in helping develop and carry out these strategies. As the Dean/Director of my agency, I will continue to devote the time and energy necessary to publicizing the need to attract, recruit, and retain quality law enforcement personnel.

3. *The commission's strategic plan says it is considering raising entry-level qualifications to become an officer. What is the status of that proposal?*

By Commission action several Strategic Plan objectives dealing with this issue has been addressed to include studying the feasibility of raising entry-level education requirements and reading and writing requirements, expanding the cognitive testing for peace officers, and establishing basic academy report writing standards, to name a few.

After careful study and reflection, it was decided that many of these issues described above could very well have a negative impact on recruitment. I personally believe that more research and consideration of cognitive testing is appropriate.

LEGISLATION

4. *SB1234 – Please describe the Commissions progress toward meeting these requirements.*

An eight hour course designed by POST that meets the requirements of Penal Code Section 13519.6 has been implemented and is being presented by the Museum of Tolerance in So. California and Napa College in No. California. Additionally, a telecourse was developed and distributed to all law enforcement agencies in 2002. The course was updated in 2006, to meet the requirements of SB1234, in collaboration with subject matter experts and the Senate Office of Research.

In 2006, the Hate Crime curriculum was up-dated to include the Attorney General's opinion (04-1104, 8/15/05) which reads, "...the intentional selection of a victim with a protected characteristic is not sufficient to constitute a hate crime; a subjective attitude amounting to bias motivation is an essential element of the offense."

An updated model hate crime policy for law enforcement is being developed at this time and will be presented at the July Commission meeting.

EMPLOYMENT

5. *What steps have you taken to help departments weed out sub-par employees before they are hired? What sort of training is available on this topic?*

Several initiatives have been undertaken in this critical area to help employing agencies identify the most qualified candidates. For example in 2006 the Commission adopted a redesigned Background Investigator Manual and Personal History Statement. POST staff conducted thirteen training sessions throughout the State to familiarize background investigators with portions of the manual that had changed and to improve the accuracy, completeness, and consistency of background investigations throughout the State.

In 2004, the Commission directed an 18-month study on the viability of administering a pre-employment personality assessment of peace officer applicants. This now completed study will come before the Commission at the April meeting. If accepted by the Commission, agencies may use the material to evaluate five traits of entry level peace officers: Conscientiousness, Agreeableness, Emotional Stability, Extraversion and Openness to Experience. As a result of this research, these personality attributes were found to be highly predictive of one's ability to function effectively in a law enforcement environment.

In 2003, POST updated the oral interview process through publication of the Oral Interview Manual, the creation of an interview question bank, evaluation criteria, and associated regulatory updates. This allowed for the standardization of the oral interview process and increased the content validity of the process. Specific traits to be identified and evaluated through this process include life experience, problem solving ability, communication skills, interest/motivation, interpersonal skills and community involvement/awareness.

Basic Academy training and assessment procedures have been developed to integrate leadership, ethics and community policing, and problem-based learning into all aspects of the Basic Course Training and Testing Specifications, including the associated Student Workbooks. Moreover, POST staff developed and continuously updates 27 mandatory, must-pass Knowledge tests including comprehensive Mid-term and Final Examinations.

Several other projects are in progress to include additional work in the areas of physical fitness test batteries, competency-based scenario testing, and conducting validation studies on three perishable skills to include firearms, defensive tactics, and vehicle operation.

PAROLE RE-ENTRY

6. *Have you developed training courses for either managers or officers on how to handle parolees who return to their home communities and live in a re-entry facility?*

The answer to this question is yes. POST develops training courses based on demand from the field or when specific training is mandated by the legislature. In 1997 POST, in response to requests from Chiefs and Sheriffs, produced and distributed a two-hour telecourse entitled Parole and Local Law Enforcement. This course was designed to familiarize police officers about their community's parolee population, the rights and responsibilities of parolees and potential hazards in contacting parolees who may be suspects in a crime.

In 1999, a course entitled Parolee Contacts was designed by a student of the POST Master Instructor Development Program. There are presently nine presenters in the state that offer this course. This course is designed to teach officers the law related to dealing with parolee's in field contacts. From a public safety standpoint, it also serves to educate officers about prison gang culture, parolee psychology, interview techniques and the course of action to take when one is suspected of violating the terms and conditions of parole.

WEB-BASED TRAINING

7. *What progress have you made toward this goal?*

POST has long been a leader in the development of technology-based training for law enforcement. In 1991, ACR 58 established the POST Learning Technology Resource Center (LTRC), which spearheaded the development of computer-based training programs, first on interactive videodisc and then on CD-ROM. I'm proud to say that I was serving on the Commission at this time and was directly involved with this initiative. LTRC is now developing Internet-based training programs and performance tools for California law enforcement accessed via the POST Learning Portal.

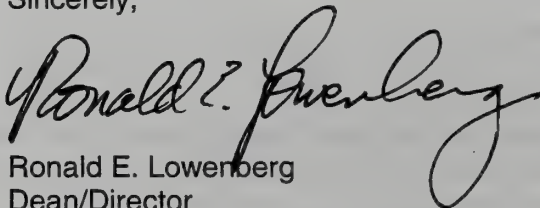
POST staff continues to do a great job of managing some very successful training programs that are hosted on the Learning Portal.

Some of the benefits of online training include access to training 24/7, consistent quality of training, the ability of rural agencies to more easily access needed training, savings in travel/presentation costs, and economies of scale where the more training that takes place the less costs per student.

Administrative plans include the establishment of an advisory council to help staff determine and overall plan for online training. Examples of items the council could address include the development of a process and methodology for identifying needed training, determining priorities for research, and the development of policies and guidelines for the use of the various products created.

As a retired police chief, POST Commissioner, trainer and now an educational administrator I believe I possess a unique combination of experiences that will continue to serve me well on the Commission

Sincerely,



Ronald E. Lowenberg
Dean/Director
Criminal Justice Training Center
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SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

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GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

ROBERT L. GARCIA, Chief Deputy Director
California Department of Social Services

FRANK MECCA, Executive Director
County Welfare Directors Association

PATRICIA RYAN, Executive Director
California Mental Health Directors Association

GEORGE J. GIURBINO, Associate Director
Division of Adult Institutions
Department of Corrections and Rehabilitation

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Taxpayers for Improving Public Safety

DARLENE ESTES-DANGERFIELD, President
Association of Black Correctional Workers

1 CHRIS BROWN, Legislative Liaison
2 Association of Black Correctional Workers

3 ANTHONY P. KANE, Associate Director
4 Division of Adult Institutions
5 Department of Corrections and Rehabilitation

6 WILLIAM P. RODRIGUEZ, Associate Warden
7 California State Prison, Solano

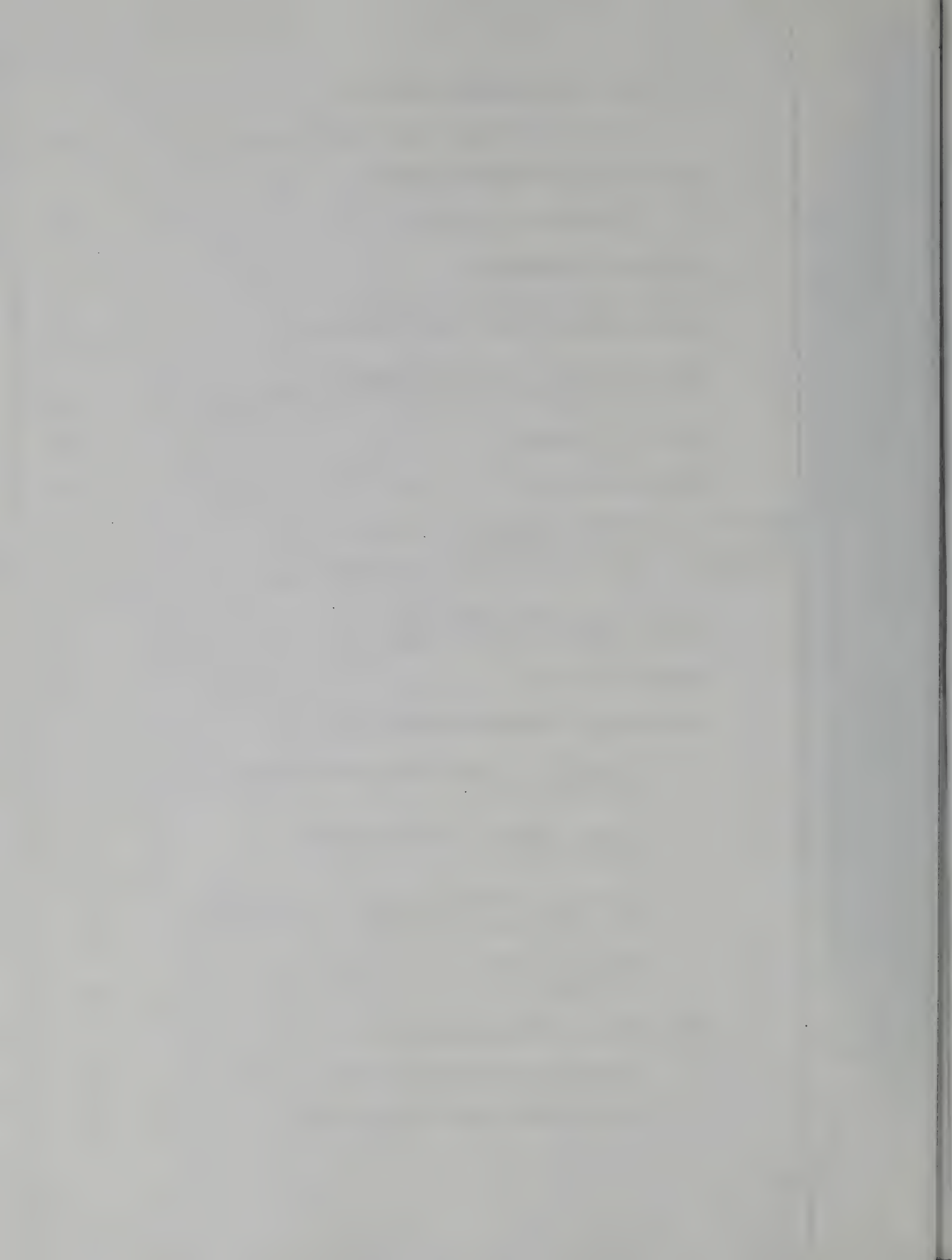
8 JOHN K. NUNEZ, Retired Captain
9 San Quentin State Prison

10 KRIS SISTO, Warden
11 California State Prison, Solano

INDEX

	<u>Page</u>
Proceedings	1
<u>Governor's Appointees:</u>	
ROBERT L. GARCIA, Chief Deputy Director California Department of Social Services	1
Opening Statement	1
Questions by CHAIRMAN PERATA re:	
Degree in Chemistry	3
Characterization of Changes Observed in State Service	4
Suggested Changes in State's Selection System for Hiring	5
Questions by SENATOR PADILLA re:	
Involvement in Development of Governor's Proposal to Change CalWORK's Process	6
Meeting Compliance without Extreme Measures	7
Need to Work Together	8
Questions by SENATOR CEDILLO re:	
Participation Rate of Food Stamps	9
Cost of Under-utilization	9
Strategies to Simplify Participation And Frequency of Verification	10
Need to Invest in Outreach for Food Stamp Participation	11
Request for Numbers on Expenditures for Fraud Detection and Outreach	12

1	Statements by CHAIRMAN PERATA re:	
2	Counties Used as Delivery System	12
3	Questions by CHAIRMAN PERATA re:	
4	Outreach to Counties	13
5	<u>Witnesses in Support:</u>	
6	FRANK MECCA, Executive Director	
7	County Welfare Directors Association	14
8	PATRICIA RYAN, Executive Director	
9	California Mental Health Directors Association	15
10	Motion to Confirm	16
11	Committee Action	17
12	GEORGE J. GIURBINO, Associate Director	
13	Division of Adult Institutions	
14	Department of Corrections and Rehabilitation	17
15	Introduction and Support by	
16	SENATOR DENISE MORENO DUCHENY	17
17	Opening Statement	19
18	Statements by CHAIRMAN PERATA re:	
19	Governor's Plan to Put Emphasis on	
20	Rehabilitation	21
21	Recent Request for Additional	
22	Prison Beds	21
23	Lack of Confidence Mainly Due to Need	
24	For Leadership from Top	22
25	Need for Support from Chain of	
26	Command	22
27	Questions by CHAIRMAN PERATA re:	
28	Commute from Imperial County	22
	How to Keep Institutions Safe	23



1	Providing Activities for Level IV	
2	Prisoners	24
3	Relationship between Local DAs and	
4	Department	25
5	Administrative Segregation	26
6	Questions by SENATOR PADILLA re:	
7	Effect of Federal Litigation on	
8	Ability to Do Job	28
9	Sergeants Vs. Analysts in Background	
10	Investigation of New Recruits	29
11	Contraband Cell Phones in Prisons	30
12	SIM Cards Allow for Multiple Users of	
13	One Cell Phone	32
14	Ways in Which Cell Phones Get into	
15	Prisons	33
16	Suggestions to Limit Unauthorized	
17	Presence of Cell Phones in Prisons	34
18	Questions by CHAIRMAN PERATA re:	
19	Ability to Fill Vacant Custody Positions	35
20	Method of Selecting Prisons to House	
21	Additional Beds/Inmates	36
22	Establishment of Satellite Academies	37
23	Questions by SENATOR ASHBURN re:	
24	Consideration of Staffing Capabilities	
25	When Adding Beds	38
26	Importance of Staff	39
27	Problem of Attracting People to Work in	
28	Corrections	40

1	Existence in CDCR of Accurate Forecasts of	
2	Numbers of Employees Needed, then Recruitment,	
	Training, and Certification Plans	41
3	Preparedness of Department to Deal with	
4	Employment Needs	42
5	Ability to Speak Directly to Agency	
6	Secretary or Director	44
7	Vacancies in Department Are Emergency	
	Requiring Extraordinary Action	45
8	<u>Witnesses in Support:</u>	
9	DAVID WARREN	
10	Taxpayers for Improving Public Safety	46
11	DARLENE ESTES-DANGERFIELD, President	
12	Association of Black Correctional Workers	48
13	CHRIS BROWN, Legislative Liaison	
14	Association of Black Correctional Workers	49
15	Motion to Confirm	49
16	Statements by SENATOR ASHBURN re:	
17	Appreciation for Candor	50
18	Sympathy to Nominee and Family	50
19	Committee Action	50
20	ANTHONY P. KANE, Associate Director	
21	Division of Adult Institutions	
	Department of Corrections and Rehabilitation	50
22	Opening Statement	51
23	Questions by CHAIRMAN PERATA re:	
24	Status of Distance Learning and	
25	Rehabilitation Plans for Future	53
26	Educational Programs	54
27		
28		

Witnesses in Support:

DAVID WARREN	
Taxpayers for Improving Public Safety	47
WILLIAM P. RODRIGUEZ, Associate Warden	
California State Prison, Solano	67
JOHN NUNEZ, Retired Captain	
San Quentin State Prison	68
CHRIS BROWN, Legislative Liaison	
Association of Black Correctional Workers	68
KRIS SISTO, Warden	
California State Prison, Solano	68

Questions by SENATOR ASHBURN re:

Ability to Discipline Employees Who	
Bring in Contraband Cell Phones	71

Questions by SENATOR PADILLA re:

Job Classifications of Employee	
Offenders	72
Need for Sufficient Deterrent	72

Statements by CHAIRMAN PERATA re:

Both Nominees Have Bearing of	
Leadership and Presence	73
Need for Peace Officers to Be	
Fully Engaged in Process	74
First Sign of Encouragement	74

Committee Action	74
------------------------	----

Termination of Proceedings	75
----------------------------------	----

Certificate of Reporter	76
-------------------------------	----

APPENDIX: Written Responses to Committee Questions	
By Appointees	77

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We will now resume. We have three Governor's appointees who are here this afternoon for confirmation.

Our first is Robert Garcia, who is the Chief Deputy Director of the California Department of Social Services.

Mr. Garcia, welcome. You may say what you would like to say.

MR. GARCIA: Good afternoon, Mr. Chairman and Members.

My name Robert Garcia. Thank you for the opportunity to present my qualifications for the position of Chief Deputy Director, Department of Social Services.

You have my resume, my responses to the questions that you sent me on March 22nd, as well as several letters of support, so I'm going to be brief.

I began my career in state service as an administrative trainee at the Department of Social Services 35 years ago. So, coming back to the department in last July was like coming back home for me.

I worked at DSS for nearly 20 years, rising to the position of Deputy Director of Administration. I've served more than 27 years in management and senior management positions, including over 19 years as Deputy Director in four different departments.

In my years at DSS, I've found that the programs we managed served the neediest and more vulnerable people in the

1 state, and that we make a positive difference in their lives.
2 Although we often are not able to do all the things we'd like to
3 do because of financial constraints, we do make a difference,
4 and we meet the most important needs.

5 I believe that I'm well qualified to deal with
6 the challenges of maintaining an organization that can meet the
7 programmatic needs in the face of many challenges, including the
8 increasing number of retirements of our most experienced staff.
9 Like all other state departments, we at DSS are facing a rising
10 wave of retirements that will result in the loss of some of our
11 most knowledgeable and experienced staff over the next two to
12 five years.

13 To address this problem, we've instituted a
14 variety of programs to hire, develop, and retain staff, and to
15 improve the leadership skills of our managers and supervisors.
16 I addressed this issue in my response to your questions on March
17 32nd -- or 22nd, excuse me -- but I was going to very briefly
18 mention a few of the things that we're doing that I think are
19 very important.

20 First, we've dedicated a position to manage our
21 efforts, very important keep on track and keep us moving. We
22 have a leadership development program that includes a mid-level
23 managers academy, quarterly educational forums for all our top
24 managers, and a mentoring program that will take advantage of
25 retired annuitants to come back and mentor our new managers and
26 supervisors.

27 We've developed an employee retention program,
28 and we're developing training for our analytical staff. We're

1 working on becoming an employer of choice, and I think this is a
2 really important element of our succession plan. We want to
3 make DSS a place where people can come to work and stay for the
4 long term. We're doing this with the assistance of Roger
5 Valine, former CEO of Vision Service Plan, and other leaders
6 from private industry and government. VSP has been rated by
7 Fortune Magazine as one of the best places to work in the
8 country over the past 10 years.

9 Now, we've also developed employee recognition
10 programs, and we're working with the State Personnel Board and
11 DPA on a variety of things to improve the state's ability --
12 well, our ability to retain and hire well-qualified staff.

13 I'd like to take a minute to introduce my family
14 who are here, to my surprise. My wife of 34 years, Joanne Yee,
15 and my two daughters, Alexis and Allison.

16 CHAIRMAN PERATA: Welcome.

17 MR. GARCIA: And now I would be happy to answer
18 questions from the Committee.

19 CHAIRMAN PERATA: We see a lot of things here
20 that are pretty incongruous, but for someone to take a degree in
21 chemistry and end up in Social Services is quite unusual.

22 MR. GARCIA: It is. I have to say that when I
23 was in college, I really had intended to become an engineer.
24 And as I went through college, I really kind of wasn't sure of
25 what I wanted to do. When I graduated, I had an opportunity to
26 come to work for the state and really only came to Sacramento
27 because at that time my wife was going to be coming -- my now
28 wife was going to be coming to Sacramento.

1 As it turned out, though, all the things that I
2 learned in getting a chemistry degree were very useful. I was a
3 very good analyst, skills that really apply in most of the
4 management roles that I've been in.

5 CHAIRMAN PERATA: I'm just happy you didn't go
6 into law.

7 [Laughter.]

8 CHAIRMAN PERATA: It's great you can say that
9 here because no one else did either.

10 You have a long and illustrious career. What you
11 have seen over that career?

12 You've been in Social Services less time than
13 you've been in government service, but how would you
14 characterize it? You've had an entire career here. How would
15 you characterize the changes that you've seen?

16 MR. GARCIA: In state service?

17 Well, you know, unfortunately we haven't seen
18 enough changes in a really key area when it comes to succession
19 planning. There haven't been very many changes in our selection
20 and hiring process. It takes way too long, and we can't bring
21 in good people.

22 I think we're seeing because of those
23 constraints, I mean, the system has changed. The people coming
24 into the workforce have changed. It's much more difficult for
25 us to bring people into state service than it was when I came
26 in.

27 CHAIRMAN PERATA: Because of what?

28 MR. GARCIA: Because of our selection system,

1 which hasn't changed in the 30 years that I've been around.

2 CHAIRMAN PERATA: How should it change, in your
3 opinion?

4 MR. GARCIA: Well, in my opinion, I think some of
5 the key things that I think would help: our testing processes
6 have a tendency to take way too long and screen out way too many
7 people.

8 One thing that I would do is make those processes
9 much shorter, and we're talking with the State Personnel Board
10 about some of those kinds of changes.

11 Make the process shorter, and instead of creating
12 lists that have, you know, 10 ranks or more, have lists that
13 essentially are created as pass-fail, so that the hiring
14 agencies can select the people that are best suited for their
15 jobs and not have those people screened out.

16 I mean, a really good example of the problem with
17 the system right now was, at a recent State Personnel Board
18 hearing the manager of the Intern Program at Sac State talked
19 about last year having 15 students participate in the program in
20 state agencies; 14 of those wanted to come back to work for the
21 state. And after all was said and done, with the selection
22 processes we have, only one came to work for the state.

23 I mean, these are people that wanted to work for
24 us and couldn't come to work for us.

25 CHAIRMAN PERATA: Thank you for your candor.

26 Any Members have questions?

27 SENATOR PADILLA: I have two questions, and I'll
28 narrow it down to one, because I appreciate you acknowledging

1 the planning that's taking place to deal with the anticipated
2 turnover in the department and workforce at all levels, but
3 particularly at the upper management level, and what we can
4 foresee over the next five years or so.

5 So my one remaining question is, part of the
6 Governor's both initial proposed budget in January, reiterated
7 in the May Revise, is changes in the CalWORK's process, and the
8 full family penalty, if you will, and the cutting off of
9 assistance to children living in poverty for the mistakes,
10 failures, by their parents.

11 Since it's sort of under your jurisdiction in
12 terms of disposition, can you share with us what your
13 involvement was in the development of that proposal?

14 MR. GARCIA: Well, I can tell you that all of the
15 proposals that come forward in the Governor's budget are the
16 result of extensive vetting and extensive assessment of the
17 priorities that have to be addressed.

18 In the case of CalWORKs, what we were dealing
19 with was trying to come up with a plan that would have us meet
20 some of the new federal requirements that have come into effect
21 as a result of the Deficit Reduction Act. Those include
22 increasing the proportion of people in CalWORKs that are -- that
23 are meeting federal work requirements. The requirements are
24 much more stringent. The base for computing the participation
25 rates have changed.

26 And it was our sense that if we didn't take -- if
27 we don't take some very drastic action, we're not going to be
28 able to meet those participation rates. So the proposals that

1 we put forward were intended to move us in that direction.

2 Now, in the May Revise, when we recalculated some
3 of the participation rates, and where we might be with the
4 changes we proposed, it's really apparent that even with the
5 changes we proposed, it's going to be very difficult for
6 California to come into compliance. Now, there may be other
7 things that can be considered, but those were the things that
8 came forward from the administration, and we felt they were
9 things that would help us meet the work participation rates.

10 SENATOR PADILLA: Are we in compliance today?

11 MR. GARCIA: No, we're not.

12 SENATOR PADILLA: How far off are we?

13 MR. GARCIA: Well, our participation rate right
14 now is about 20 percent. And then when you calculate in some of
15 the benefits and credits that we get, we're about 15 percent
16 short of meeting the rate, so we need to increase significantly.

17 There are some changes that the counties are
18 putting into effect as a result of the law changes last year.
19 We've assumed that they're going to achieve the levels that in
20 working with them we've concluded could be achieved. But even
21 with that, it's going to be difficult for us to make the rate.

22 SENATOR PADILLA: I know by sitting on the Budget
23 subcommittee that entertains the policy part of the issue, I
24 wanted to raise it here today.

25 As you know, the subcommittee recommended
26 rejecting that specific proposal.

27 But on the figures themselves, California's much
28 closer to compliance, from my understanding, than some of the

1 initial statistics that were presented to that committee. And
2 there's a different level of confidence by others that we'll be
3 on track, or we are on track to either be at compliance or a lot
4 closer without having to resort to these extreme type of
5 measures.

6 MR. GARCIA: I think that the significant thing
7 that I think did not come out in the discussions in the hearings
8 was a change that we did in our estimates in the May Revise
9 which made an adjustment for the Maintenance of Effort funding
10 that would be in place, when our Maintenance of Effort
11 requirement is increased because we haven't met the work
12 participation rate in the first year. And we're not going to
13 meet it in '07 no matter what we do.

14 So, as a result of that, our work participation
15 -- our Maintenance of Effort requirements are going to go up,
16 and less money is going to be available to apply to a reduction
17 credit than what was previously estimated.

18 SENATOR PADILLA: And I don't want to rehash the
19 policy or the budgetary debate here per se, because it's being
20 reviewed and considered on a much more global level for this
21 position, but it is important to me, and I know it's important
22 policy for a number of my colleagues.

23 So, I'll look forward to working with you on it
24 because this is one area where we disagree significantly.

25 MR. GARCIA: And I think with the rejection of
26 those proposals, I think we're going to need to talk about,
27 well, if we don't do those, what are we going to do? Because we
28 need to do some things to meet the work participation rate.

1 So, we'll be happy to work with you.

2 SENATOR PADILLA: Thank you.

3 SENATOR CEDILLO: Just briefly on food stamps,
4 tell me about our participation rate? What plans and strategies
5 you have to increase it? Are we still encumbering recipients
6 with verification?

7 MR. GARCIA: First, you're probably aware,
8 California's food stamps participation rate, according to
9 federal calculations, we're in last place. We're at 46 percent.

10 Now first, I think --

11 SENATOR CEDILLO: So, it's 46 percent
12 participation and 54 percent --

13 MR. GARCIA: Of all the people that could
14 potentially qualify for food stamps, about 46 percent are
15 currently utilizing food stamps in California.

16 SENATOR CEDILLO: So, what's the cost for the
17 under-utilization? What's the 54 percent? How much money are
18 we not bringing in?

19 MR. GARCIA: Well, I think -- I don't know what
20 that number is. I mean, how much additional money. It's over a
21 billion dollars of additional food stamps that come in -- could
22 come into California.

23 Now, I will say that our participation rate is
24 calculated by the feds without consideration of the fact that we
25 cash out food stamps in the SSI/SSP program. Now, if that were
26 mixed into the calculation, our participation rate would go up
27 by seven to ten percent, and we would be comparable to other
28 large states.

1 Now, there's no question there are -- there are
2 still people out there that could benefit from food stamps that
3 aren't utilizing the program. They tend to be working families
4 with some income, but not sufficient to meet all of their
5 nutrition needs. But their food stamps benefits would likely be
6 relatively low, so the process that they have to go through to
7 apply for food stamps is probably more of a burden, or seems to
8 be more of a burden, than they're willing to bear.

9 So, we're doing things to try to deal with that,
10 to simplify the process.

11 SENATOR CEDILLO: So tell me about the strategies
12 that will get us from 50 percent up?

13 MR. GARCIA: Among the things that we're doing --

14 SENATOR CEDILLO: And then, strategies to
15 simplify, and don't forget -- what's the frequency of our
16 verification?

17 MR. GARCIA: Well, and that is one of the things
18 we're trying to do to simplify. Right now, the frequency of
19 verification is quarterly. What we're propose -- what we're
20 looking at doing is, going to semi-annual verification, which
21 would reduce the burden on -- on families that are applying for
22 food stamps and other benefits, actually.

23 So, that's one strategy, is to simplify the
24 system. And simplifying the system would include things like
25 that, perhaps also putting the application process online so
26 that those people who need assistance could go to a
27 community-based organization, and many of them all ready have
28 interaction with those, and get assistance in filing for food

1 stamps.

2 Now, in addition to that, I think there are some
3 outreach kinds of things that could be done. We have an
4 outreach program right now, working with food banks that is in
5 place in 23 counties. That could be expanded.

6 The thing with that and some of the other changes
7 that involve outreach, like providing additional funding to the
8 counties so that they can have more outreach workers, is the
9 cost, and competing priorities for the funding that's available.

10 SENATOR CEDILLO: So, nonetheless, if we don't
11 invest in the outreach, we lose over a billion dollars?

12 MR. GARCIA: Well, if everybody that is eligible
13 for food stamps were to qualify and begin to receive food
14 stamps, yes.

15 But, you know, in looking at the cost, the
16 administrative cost of increasing -- doing more outreach, and
17 the economic benefit of bringing the money into the state, the
18 revenue elements don't balance out. So, the revenue increases
19 don't balance the increased cost.

20 SENATOR CEDILLO: Well, let me say this. It just
21 seems to me that if there's a billion dollars that we would
22 access for the people of California, that we should be investing
23 in that. It's a net loss at this point, from my perspective.
24 It's a net loss of a billion dollars that could be utilized for
25 low-income Californians who have a right to this and have a
26 need, and we're not investing.

27 I don't understand why we don't have like a
28 threshold or a goal of 100 percent participation?

1 MR. GARCIA: Well, I don't think any state is at
2 100 percent participation.

3 SENATOR CEDILLO: How about California?

4 MR. GARCIA: But again, I think, again, the issue
5 is one of the cost of these efforts to get more people into the
6 program being a competing priority with all the other things
7 that we want to fund in the state.

8 SENATOR CEDILLO: How much do we spend? I'd be
9 interested in those numbers.

10 And I'd be interested -- I know this isn't the
11 subcommittee hearing -- and then the expenditures we utilize for
12 fraud and fraud detection. What are those costs as they relate
13 also to outreach? What's the value in terms of how much we
14 spend, and what's the utility?

15 MR. GARCIA: We can get you that information.

16 SENATOR CEDILLO: Thank you.

17 CHAIRMAN PERATA: I was a county supervisor in
18 one of the iterations of my life.

19 We are one of eleven states, I believe, that use
20 the county system as, effectively, the delivery service.

21 One of the things I remember was, and since I've
22 been up here it's become really pronounced, we've got this kind
23 of Capitol Mall mentality. In Washington they call it Beltway.

24 You don't have to work here very long before you
25 think that everything begins or ends here. And I never saw
26 much, except when they were coming in for like punitive
27 purposes, never saw much from the Department of Social Services
28 out in Alameda County.

1 Has that changed? From what you said earlier,
2 things haven't changed for 30 years and they should. I probably
3 know the answer, but --

4 MR. GARCIA: Well, you know, when --

5 CHAIRMAN PERATA: How's your outreach going?

6 MR. GARCIA: We do outreach. In fact, we do
7 spend time in the counties.

8 There's no question we could spend more, and I
9 think that is one of the priorities that we're going to have for
10 the department, is to get out there --

11 CHAIRMAN PERATA: I'll tell you one thing we're
12 not going to do. If you guys have to go to the counties, you're
13 not going to have retirement safety. People will tell you it's
14 dangerous for you guys to go to the counties, but that's not
15 going to be the case.

16 [Laughter.]

17 MR. GARCIA: Really, it's not dangerous for us.
18 I mean, and I will tell you, when I started working for the
19 state, I went through eligibility worker training in L.A. County
20 as a training process to be an employee of the Department of
21 Social Services.

22 And I don't think we do that any more. Although,
23 we do get out to the counties. Our staff that are working on
24 program policies do get out into the counties, and we interact
25 with the counties here in Sacramento.

26 You know, one of my goals is to get us out more.
27 Even though I think we are out there, the sense is we could be
28 out there more.

1 CHAIRMAN PERATA: Good.

2 Anyone here who would like to speak in favor?

3 MR. MECCA: Thank you, Mr. Chairman.

4 I'm Frank Mecca, the Executive Director of the
5 County Welfare Directors Association and have been so for about
6 16 years.

7 CHAIRMAN PERATA: Never going to change that
8 Welfare name?

9 MR. MECCA: Though we have an annual debate about
10 it.

11 CHAIRMAN PERATA: Good. That's reassuring.

12 [Laughter.]

13 MR. MECCA: When I started at CWDA, Bob and I
14 crossed paths briefly, so I didn't have the opportunity to work
15 closely with him.

16 But I began working for an association that
17 thought very highly of his skills as an administrator and as
18 somebody who really respected the county partnership and the
19 role that you describe as the deliverer of front-line services.

20 For the past year or so, since Bob's appointment
21 or start at DSS, I've had the opportunity to work first-hand
22 with him and experience many of the qualities that had earned
23 him that reputation with CWDA that I'd happened upon when I
24 started 16 years earlier.

25 You, I think, really hit the nail on the head
26 from the counties' standpoint: It's critically important that
27 the state respect and understand and support counties in our
28 function as those who actually, on your behalf, deliver services

1 where the rubber meets the road. And Bob clearly respects that.
2 He's solutions-oriented, and he's quite
3 accessible.

4 I think most importantly, though, that we can
5 agree to disagree on policy. It's not always an easy
6 relationship to finesse when the county partner's taking a
7 position that's very different than the state partner. And
8 CalWORKs, Senator Padilla, is a prime example of where we really
9 don't see eye-to-eye with respect to many of the policies.

10 But that doesn't affect the relationship between
11 the state and the counties on a day-to-day basis, which has to
12 function if we're going to deliver services and sort of have the
13 railroad running on time. And our ability to agree to disagree
14 on policy, but nonetheless work very hard day-to-day to most
15 effectively administer programs is a quality that's important to
16 us, and one that certainly Bob has.

17 We don't lack for challenges in CalWORKs, foster
18 care, elder abuse, IHSS, the gamut of services for the most
19 needy Californians. We take the responsibility seriously, and
20 we really need an effective state partner. And it's been our
21 experience that Bob can be that partner.

22 So we support his nomination.

23 CHAIRMAN PERATA: Thank you.

24 MS. RYAN: Mr. Chair and Members, I'm Patricia
25 Ryan, the Executive Director of the California Mental Health
26 Directors Association.

27 And I could echo all of Frank's comments.

28 I just want to more specifically talk a little

1 bit about the relationship that we had with Bob while he served
2 as Chief Deputy Director at the Department of Mental Health.

3 He came in at a very critical time for us,
4 because the Prop. 63, the Mental Health Services Act, had just
5 passed, and it was a huge and daunting challenge for both the
6 state and the counties to figure out how to implement that act.
7 We're still doing it, by the way, on a daily basis.

8 But Bob came in, was a breath of fresh air as far
9 as his approach in working with counties, his collaboration in
10 working with counties. He was a man of his word. We negotiated
11 really on a weekly basis on some very detailed policies with
12 regard to the implementation and development of regulations,
13 flow of money, things like that. Very respectful, very
14 respectful to our staff, to our members, each and every one of
15 our members.

16 A member of our Executive Committee asked to be
17 represented here in supporting his nomination because he is what
18 a public servant should be, and that is intelligent, solution-
19 oriented, respectful, and just generally a very responsible
20 person to have in state government.

21 And I've worked in and around state government
22 and federal government for a long time, and those people,
23 especially at higher levels, are few and far between, as far as
24 I'm concerned, and Bob is one of them.

25 So, we very much support his nomination.

26 CHAIRMAN PERATA: Thank you.

27 Anyone further? Anybody in opposition?

28 SENATOR ASHBURN: I'll make the motion.

1 CHAIRMAN PERATA: We have a motion to approve.
2 Please call the roll.

3 SECRETARY WEBB: Cedillo.

4 SENATOR CEDILLO: Aye.

5 SECRETARY WEBB: Cedillo Aye. Dutton.

6 SENATOR DUTTON: Aye.

7 SECRETARY WEBB: Dutton Aye. Padilla.

8 SENATOR PADILLA: Aye.

9 SECRETARY WEBB: Padilla Aye. Ashburn.

10 SENATOR ASHBURN: Aye.

11 SECRETARY WEBB: Ashburn Aye. Perata.

12 CHAIRMAN PERATA: Aye.

13 SECRETARY WEBB: Perata Aye. Five to zero.

14 CHAIRMAN PERATA: Five-zero, congratulations.

15 MR. GARCIA: Thank you.

16 CHAIRMAN PERATA: We now have the next two.

17 Mr. Giurbino, if you'd like to come forward,
18 Senator Ducheny is in route, so if you walk really slowly she
19 might get here.

20 [Laughter.]

21 CHAIRMAN PERATA: We can start with if you have
22 any family you'd like to introduce?

23 MR. GIURBINO: I do have family members that are
24 with me here today. My wife, Linda Giurbino, and my son Joseph.

25 CHAIRMAN PERATA: Welcome.

26 Look at that, right on time, Senator Ducheny.

27 SENATOR DUCHENY: Thank you very much,
28 Mr. Chairman and Members.

1 I just wanted to take this opportunity briefly to
2 introduce George Giurbino. I have known him for several years
3 because he was the Warden of our prison in Centinela in Imperial
4 County. And he has been a resident of the Imperial County for a
5 long time, with our prisons there.

6 And as much as we sort of regretted him leaving
7 Imperial Valley, I do think at this moment in the situation that
8 our prisons are in, somebody with his on-the-ground managerial
9 experience is actually an asset in Sacramento.

10 Some of you know how I feel about headquarters in
11 general, but I think, you know, somebody who really has shown
12 and demonstrated managerial experience, he had good employee
13 relations at Centinela, good inmate relations even in difficult
14 financial times. It was not one of the prisons you heard from,
15 which counts for something in our world.

16 And in fact, when we did have issues in
17 Calipatria, a sister prison also in Imperial County, it was
18 Mr. Giurbino who was called to bring order in a situation that
19 was very difficult about two years ago in Calipatria when there
20 was a riot. He was called over there to help out, came back to
21 Centinela, and now he has been here in Sacramento for a few
22 months.

23 And I do think it's important that we have people
24 who have demonstrated managerial skills. It has been the
25 ongoing theme this year, that we need good, strong, better
26 management in CDCR in general. I think this is one of the
27 people that can help provide it, and I just wanted to take the
28 opportunity to say that before I go back to my budget briefings.

1 CHAIRMAN PERATA: Thank you, Senator.

2 MR. GIURBINO: Good afternoon, Chairman Perata
3 and honorable Members of the Senate Rules Committee.

4 Thank you for scheduling my appearance before you
5 today. My name is George Giurbino, and I'm present this day
6 seeking your confirmation for the position of Associate
7 Director, High Security and Transitional Housing Units, for the
8 California Department of Corrections and Rehabilitation.

9 I come before you today humbled by the
10 opportunities the State of California has afforded me during my
11 career, and with a keen sense of awareness of the challenges
12 that lie ahead.

13 As noted within my state application and resume,
14 I have proudly served the State of California for the past 27
15 years as a peace officer, and having served the preceding 6
16 years as the Warden at both Calipatria State Prison and
17 Centinela State Prison in the Imperial Valley.

18 The high security mission institutions house
19 about 35,000 of the state's most serious offenders, with
20 institutions as far south as the California Correctional
21 Institution in Tehachapi, and as far north as Pelican Bay State
22 Prison in Del Norte County. Several of these institutions
23 contain security housing units, and two of the institutions have
24 transitional housing units to provide the ability for
25 individuals to disassociate themselves with prison and street
26 gang affiliations.

27 During this past year, we have implemented
28 additional vocational education programs within four of our

1 institutions, incorporated alternatives to violence programs,
2 initiated a pilot interactive computer-based program for a
3 select group of security housing unit inmates, and reduced the
4 number of lockdowns and modified programs affecting our
5 population, as well as reduced the number of offender suicide
6 occurrences.

7 Our staff deals with some of the most challenging
8 incidents within the department, and continue to endeavor in
9 providing functional program activities where possible and
10 return safely to their awaiting families each evening.

11 My role is to provide the leadership, the
12 oversight, courage, and motivation for our mission to manage
13 safe institutions and create and provide rehabilitation services
14 to our offender population in both a safe and secure living
15 environment.

16 I am honored to have been appointed and entrusted
17 by Governor Schwarzenegger to manage the high security
18 mission-based group in the California Department of Corrections
19 and Rehabilitation, and at a time where our organization is at a
20 pivotal point of challenge, where our cooperativeness and
21 decisive efforts will be instrumental in our ultimate successes.

22 I would like to thank the agency administration
23 for their faith in my appointment. I would like to express my
24 sincere appreciation to the wardens and their staff within the
25 high security mission-based groups for their steadfast efforts
26 to maintain safe and secure facilities for the citizens of
27 California.

28 And most importantly, I'd like to thank my wife,

1 Linda, and our children, Jessica, Jonathan, and Joseph, without
2 whose love and patience and sacrifices this opportunity would
3 not have been possible.

4 At this time, I'm prepared to respond to any
5 questions that the Committee may have of me today. And thank
6 you again, sir, for this opportunity.

7 CHAIRMAN PERATA: Thank you very much.

8 I have just a couple of threshold comments that
9 sort of have to do with both of you, and have nothing to do with
10 either of you.

11 The Governor a while back asked to have his plan
12 for reorganization of the department. He said it would be
13 streamlining a system that was certainly in need of having some
14 trimming back and direction, and more importantly as far as we
15 were concerned, putting some emphasis on rehabilitation.

16 And then a few weeks back, we gave the Governor
17 his request for prison beds that he demanded or said that he
18 needed. I don't think any of that was in dispute.

19 But we took some serious criticism by people --
20 many of whom had the luxury of not knowing anything as they were
21 criticizing us, but nonetheless -- that we should be doing more
22 in rehab, in this, that, and the third cousin.

23 But I must say as I sit here today, I'm more
24 confused than ever. I said on the Floor at the time that we
25 gave the Governor his housing needs that I didn't have a lot of
26 confidence. And it's because less than the managers that I've
27 seen come through here, and their resolve, and more that this is
28 an organization that has a type of military structure, and if

1 you don't get the leadership from the top, you don't get any of
2 the outcomes that you would want at the bottom.

3 And so for me, what you're doing, and you
4 certainly have a hell of an idea of a career, but what you're
5 doing is very important. And I know, speaking for my caucus, we
6 certainly want to support the efforts.

7 But we don't have a lot of confidence that you're
8 going to get the support from where you need it because of the
9 chain of command. And I notice that you've come up through the
10 ranks, so you certainly understand the chain of command of the
11 system, and I'm sure you respect it.

12 But it's going to be difficult, and sooner or
13 later we're going to all be held accountable.

14 So, I would hope you would be mindful of the fact
15 that there is a lot to be said for being candid. Not here.

16 [Laughter.]

17 CHAIRMAN PERATA: You never want to be candid
18 here, but as you conduct yourself in the workplace.

19 And so, I just have one burning question: Are
20 you going to commute all the way back to Imperial County? You
21 ain't getting paid enough for that.

22 [Laughter.]

23 MR. GIURBINO: No, sir. We have found a home
24 here in the Sacramento area.

25 And there's the colors blue and green here that
26 we didn't have in Imperial.

27 [Laughter.]

28 CHAIRMAN PERATA: Well put.

1 Because if you were going to commute, I was just
2 going to take the opportunity to not confirm you. Send you back
3 to your family.

4 On the basis of what you do, there's been so much
5 discussion here, and you'll have to excuse me for one, that I've
6 been through this so often that I feel like I'm talking to
7 myself, or you and I are going to be engaged in a fine
8 discussion.

9 But you've got the worst of the worst. And 18
10 percent of the population, I guess, are the ones that you deal
11 with?

12 MR. GIURBINO: Correct.

13 CHAIRMAN PERATA: How do you help people? First
14 of all, how do you keep the prisons safe? What level of
15 activities can you provide for these people, some of whom, I
16 guess, have long since given up on any sense of rehabilitation
17 or even return. How do you deal with that?

18 MR. GIURBINO: Your first question is, how do you
19 keep institutions safe?

20 I have essentially about five basic premises to
21 maintaining a safe institution. One of those would be the
22 physical plant and the physical structure being a sound, secure
23 facility.

24 Secondarily would be the staff of the
25 institution, to make sure that there's sufficient staffing for
26 the institution, and they know how to do their job.

27 Thirdly, that we provide them with sufficient
28 training and resources to complete their job.

1 And that we also have a sound classification
2 system so that we're placing the correct inmates within the
3 correct locations so that the physical plant is appropriate for
4 the type of inmate that we have housed there.

5 And that we provide ongoing training for our
6 staff.

7 CHAIRMAN PERATA: And how do you provide
8 activities to this strata of prisoner?

9 MR. GIURBINO: The 18 percent of the population
10 that you're addressing are the inmates that have a very
11 difficult time in being able to function within a Level I, II or
12 III facility, and they ultimately, in a manner of speaking, earn
13 their way up to a high security institution.

14 And within these institutions, we don't try to
15 shun away from the responsibility to provide activities and
16 programs. However, these are the -- by having -- by the virtue
17 of having these institutions, our other level facilities are
18 able to provide more opportunities, free of violence and
19 disruptions within them. We receive gang members that are --
20 that demonstrate violence and other disruptions within those
21 institutions.

22 Once they come to our institutions, we have a
23 variety of academic programs that we do provide for them.
24 During the past 10 months, we've been implementing 18 additional
25 vocational programs for our population as well at four of our
26 institutions. In addition to that, we have Prison Industry
27 Authority programs that are taking place at five of those
28 institutions as well.

1 We provide support services type positions, which
2 is more the type of janitorial type work, construction type
3 work, maintenance type work, within those institutions as well.
4 And then in addition to that, we provide religious services
5 programs for our inmate population, Narcotics Anonymous, and
6 Alcoholics Anonymous type programs, violence -- alternative to
7 violence type programs for our inmate population, recognizing
8 that ultimately it's an individual's choice on what their
9 behavior's going to be.

10 Within our high security institutions also we
11 have security housing units at three of those facilities: at
12 Tehachapi State -- at the California Correctional Institution in
13 Tehachapi, as well as at Corcoran, and at Pelican Bay State
14 Prison. And in these three security housing units, the most
15 difficult to manage, and the most violent individuals we house
16 within those facilities, which represents about 3200 inmates
17 statewide. And by being able to manage and control these types
18 of behaviors, and providing them with alternatives where they
19 can work their way back to the general population, we tend to
20 manage our facilities.

21 CHAIRMAN PERATA: And that really is the goal, to
22 get them back to a I, II or III?

23 MR. GIURBINO: Correct, to a general population
24 facility that'll provide the type of recidivism reduction
25 programs that are going to benefit them the greatest.

26 CHAIRMAN PERATA: Characterize the relationship
27 between the local DA and Corrections?

28 MR. GIURBINO: The local district attorneys that

1 operate within the different counties maintain a rapport that --
2 where they work with our wardens in our institutions in two
3 different areas. One, relative to if we have arrests that take
4 place at our institutions involving civilians.

5 And secondarily, where inmates commit felonies
6 within institutions, we have an obligation to refer those cases
7 to the district attorney's office.

8 Within each institution there is an Investigative
9 Services Unit then that has a specifically designated staff
10 member that works jointly with the district attorney's office in
11 processing those cases by delivering the evidence and the
12 reports that are going to be used for prosecution of those
13 cases.

14 Then ultimately, they're tracked by that
15 individual as well as a management team at that institution to
16 ensure that those cases that are going to be prosecuted end up
17 going through that process.

18 There is also a method within the institution
19 where the -- within the Investigative Services Unit, where cases
20 are screened. And based upon a district attorney's agreement,
21 that we can screen out cases prior to them actually being
22 referred to and being prosecuted.

23 CHAIRMAN PERATA: What is administrative
24 segregation?

25 MR. GIURBINO: Administrative segregation is
26 where we temporarily house inmates based upon them posing a
27 threat to the security of the institution, them representing a
28 threat to the safety of other individuals, or there's a personal

1 safety threat to that individual, him or herself.

2 Individuals that commit a particular type of
3 offense within an institution, where it represents a violent act
4 that would constitute a felony, perhaps, those individuals would
5 be placed into administrative segregation and separated from the
6 general population at that time.

7 CHAIRMAN PERATA: So, those are pretty expensive
8 beds?

9 MR. GIURBINO: The administrative segregation
10 unit beds are among some of the more costly beds, cells, that we
11 have in the department; yes, sir.

12 CHAIRMAN PERATA: Going back to the DAs, are
13 there inmates that are being processed by the DAs that are in
14 administrative segregation?

15 MR. GIURBINO: Yes, there are, at varying
16 different levels. And based upon the individual's concerns, and
17 the reason for the referral, and the amount of time that it
18 takes to work up the case, they're in there for varying degrees
19 of time.

20 Also, the reason those inmates are in
21 administrative segregation primarily is because if their
22 behavior, if proven to be true, represents a true threat to the
23 safety of others.

24 CHAIRMAN PERATA: The DA wouldn't have any reason
25 to rush through if they're there, though?

26 MR. GIURBINO: Well, the district attorneys
27 operate off their own agendas frequently.

28 CHAIRMAN PERATA: We have heard that. We really

1 have.

2 They oftentimes try to help us with our agenda.
3 They're quite something.

4 [Laughter.]

5 CHAIRMAN PERATA: You don't have to comment.

6 Alex, a question?

7 SENATOR PADILLA: A couple questions, because I
8 was intrigued by our conversation yesterday.

9 The Legislature, the Senate for sure, but the
10 Legislature as whole and others are viewing a lot of issues in
11 this department through the goggles of some federal litigation,
12 and federal judges that are suggesting what needs to be done in
13 the department.

14 We view it obviously from a legislative
15 standpoint, from a budgetary standpoint, what we need to be
16 doing or not doing.

17 But I'm curious if you can share with the
18 Committee how that might impact your ability to do your job on a
19 day-to-day basis?

20 MR. GIURBINO: Well, there's several items of
21 litigation that are currently impacting our operations.
22 Primarily the majority of them have to do with provisions of
23 health care services related items. That'd be dental health, or
24 let it be physical health, or let it be mental health, and for
25 those that are developmentally disabled as well.

26 We work very closely with the Special Masters
27 that are assigned with these courts. In addition to that, the
28 Director of the Department has specifically assigned each one of

1 the five Associate Directors specific litigation to manage and
2 monitor, as far as working with the Special Masters when issues
3 come up so that the Director can bring us together as far as
4 doing troubleshooting to find the best method in order to bring
5 solution to different types of issues.

6 One of those most recently, which would be the
7 Coleman litigation, one of our primary focuses is trying to
8 prevent suicidal ideations or activities amongst inmates. And
9 we're developing some policies and procedures where we can do
10 more frequent screening of mental health patients within our
11 Administrative Segregation Units.

12 But again, the Director has assigned each one of
13 the Associate Directors with some realm of that litigation.

14 SENATOR PADILLA: Another topic that we discussed
15 yesterday, and you sort of brought it to my attention, the
16 question about sergeants versus analysts in the recruitment,
17 background investigation function. Can you comment on that?

18 MR. GIURBINO: The department is currently at a
19 time right now where we're trying to fill a numerous amount of
20 vacant positions that we have within the department.

21 One of our processes that we have, after an
22 individual has been selected, is having their background check
23 being completed.

24 A few months back, the Agency Secretary had
25 approved, and the Director had given us direction, to go ahead
26 and pull correctional sergeant positions from our institutions
27 to be able to do those background screenings based upon their
28 experience and their ability to expedite those.

1 From what I understand recently, there was a
2 decision made through the Legislature, perhaps, or Senate
3 hearings, where there was decision that we were going to bring
4 analysts back in and do that, rather than those correctional
5 sergeants.

6 SENATOR PADILLA: Do you believe that would
7 compromise the best recruitment practices?

8 MR. GIURBINO: I believe that the correctional
9 sergeants positions, based upon what I've seen through past
10 practice and past experience, provide a more expedient and a
11 more thorough process for doing it. And I believe that it is a
12 very functional process.

13 SENATOR PADILLA: And last, in a sort of new
14 area, the former Director of the Division of Adult Programs
15 wrote a letter to this Committee last year, emphasized the need
16 to address the core causes of prison violence, which is gangs
17 and drugs, also emphasized the need to do more to stem the flow
18 of contraband in the prisons that are utilized by gangs.

19 And in reviewing the materials provided to the
20 Committee for consideration of your appointment, there was a
21 particular concern for the growing number of cell phones that
22 are found in prisons or in the hands of inmates. Their ability
23 to communicate in unauthorized ways, obviously, is directly and
24 indirectly a greater danger to the public.

25 In doing some homework on the issue, I found that
26 it's not an issue that's unique to California.

27 Can you share with the Committee how rampant this
28 problem is, and whether or not we keep any sort of statistics or

1 data on cell phone confiscations?

2 MR. GIURBINO: The control and management of
3 contraband within our institutions is probably one of our
4 greatest concerns, and the concern for our rank and file and
5 supervisory staff that are managing our institutions daily.

6 We conduct random cursory searches within our
7 institutions, as well as our staff do specific location searches
8 where we may search an entire facility at one time.

9 At one of our institutions during the past few
10 months, at California State Prison at Sacramento during one
11 search, I believe they discovered in one day eight cellular
12 telephones within the different cells within that institution.

13 What we have found is, doing other mass type
14 searches that we've found numerous cell phones on a regular
15 daily, weekly basis, that come into, or are introduced into our
16 institutions.

17 The presence of these cellular telephones provide
18 an opportunity where we're not able to monitor and listen to
19 inmate conversations, where they may be speaking about
20 introducing contraband into the institution, or any other type
21 of plot that may compromise our facility's security. So, we
22 definitely view these cellular telephones as a threat to our
23 operations within our institutions.

24 SENATOR PADILLA: And do we keep any information?
25 If I were to ask you, facility by facility, week by week, month
26 by month, year by year, how many cell phones have been --

27 MR. GIURBINO: We would be able to collect that
28 data via our search records, I believe, as well as via our

1 incident reports, in which we've done mass searches, and we've
2 identified.

3 They may not all be notified or identified, in
4 that some of them may be found in common areas, where we didn't
5 associate that with a specific incident.

6 But yes, sir.

7 SENATOR PADILLA: So, with some work but not too
8 much work, this information can be compiled?

9 MR. GIURBINO: Correct.

10 SENATOR PADILLA: I understand with some of the
11 cell phone technologies, there's actually a way for multiple
12 users to use the same phone if you swap out what's known as a
13 SIM card.

14 Are you aware of SIM cards?

15 MR. GIURBINO: I do have a general familiarity
16 with SIM cards, and they do maintain a lot of the information
17 from a particular individual, and memory and history of
18 telephone calls.

19 SENATOR PADILLA: I guess the point of that
20 question is, you may find one cell phone, but if it's a certain
21 type of cell phone, we can be talking about two, three, ten
22 users of that one phone.

23 MR. GIURBINO: Correct.

24 SENATOR PADILLA: So, even though it's one phone,
25 or say five phones, the problem is how the usage could be
26 multiple.

27 MR. GIURBINO: Absolutely. And as you point out,
28 those SIM cards are very tiny items. And they're -- when you're

1 doing searches, they're difficult to find at times as well.

2 SENATOR PADILLA: And from your experience, is
3 the cell phone problem more prevalent in certain facilities than
4 others? Do we know which ones?

5 MR. GIURBINO: I cannot state with certainty if
6 it's more prevalent in one level prison than another.

7 I have specific concerns relative to the high
8 security prisons and the contraband that comes into those.

9 But it does happen at our lower security
10 facilities as well, and our minimum support facilities that are
11 adjacent to our high security facilities.

12 SENATOR PADILLA: How do cell phones find their
13 way into prisons?

14 MR. GIURBINO: They may come in through a variety
15 of different means. They can be introduced through a visitor
16 into an institution. They could come in through a package into
17 the institution.

18 It could be coming in through a staff member that
19 may have been compromised and found that through a blackmarket,
20 that he can earn \$500-800 for each cellular telephone that he
21 may smuggle into the institution as well.

22 They used to -- we used to see them coming in, in
23 our quarterly packages that our inmate population was able to
24 receive. Sometimes they could come in in pieces to be
25 reassembled. However, we've since switched over to a vendor
26 package process, so we've pretty much cut that avenue and that
27 ability.

28 However, I've also seen where these cellular

1 telephones have been introduced and come in through legal mail
2 as well into the institution.

3 SENATOR PADILLA: So, bringing a cell phone into
4 a prison for a prisoner's use is clearly unlawful, unauthorized.
5 Whatever penalties there are for breaking these laws and rules,
6 they're clearly not enough.

7 What else can we or should we be doing to limit
8 the unauthorized presence of cell phones in prisons?

9 MR. GIURBINO: In my conversations with my peers,
10 and the Director, and Deputy Director, there should be some type
11 of legislation that ultimately should be put together so that we
12 could make this a more significant crime for the introduction of
13 cellular telephones.

14 Our policies and procedures haven't quite caught
15 up with the technology that is available out there, and we have
16 cellular telephones that make up -- that become very small items
17 that can be secreted within body orifices, even, and be brought
18 into the institution.

19 And in order for us to show the significance of
20 it, probably additional sanctions would be necessary.

21 SENATOR PADILLA: And these additional sanctions,
22 should they be geared towards inmates? Should it be geared
23 towards visitors? Should it be geared towards personnel?

24 MR. GIURBINO: It should be geared towards
25 anybody that would break that law and introduce that contraband
26 into an institution, let it be an inmate, let it be a visitor,
27 let it be a staff member.

28 SENATOR PADILLA: Thank you.

1 CHAIRMAN PERATA: There's a kind of a snapshot of
2 time that I wanted to ask you about.

3 Salinas Valley State Prison is ready to receive
4 400 more beds as phase one of what we're doing in the next
5 two-and-a-half or a year-and-a-half to two years. In looking at
6 that, and according to the figures that we've received from
7 Corrections, almost 20 percent of the custody positions are
8 vacant right now at the prison.

9 And my question is, how realistic is it to assume
10 that you're going to fill those positions? If you're 20 percent
11 down now and you add 400 more, let's say you're down another
12 percentage. And then, you're in the Salinas Valley area, where
13 it's a high cost of living.

14 I mean, it's like this is just begging for a
15 punch line. How do you deal with that?

16 MR. GIURBINO: The Monterey County area is one of
17 the most difficult areas that we have to staff our institutions,
18 and it's not based so much upon the institution but the property
19 value adjacent to the institutions. And for our new staff that
20 come from the academy, it's very difficult for them to come
21 there.

22 We currently do have a staff vacancy that is
23 bordering along 20 percent, and it is a significant issue.

24 And yes, I have, as well as the Deputy Director
25 and the Director, become aware that we do have, as a result of
26 AB 900's passage during phase one, the potential for introducing
27 400 additional beds. The Warden at that institution, Mike
28 Evans, has already made contact with me as well, expressing his

1 concern.

2 And so, we are taking a look at that. And
3 there's going to be some additional conversations relative to
4 the placement of those inmates.

5 CHAIRMAN PERATA: Who selected those or who
6 targeted those? Was that a fly-by?

7 MR. GIURBINO: No, I do not believe it was a
8 fly-by.

9 I think that what we did, and what the department
10 did -- and I'm going to attempt not to speak out of turn --
11 however, we took a look at those institutions, and based upon
12 the physical plant resources of the institutions that could best
13 contain additional inmates within those institutions.

14 CHAIRMAN PERATA: So, the physical capacity.

15 MR. GIURBINO: Correct, relative to water
16 resources, the plumbing, water treatment.

17 However, when we're taking a look at those
18 natural resources, the human resource component necessarily
19 wasn't a priority concern.

20 We're at a point in time, based upon our
21 vacancies, where it is a concern, and we are taking a look at it
22 at this point in time.

23 I also recognize the shortage of staff that we do
24 have at the institution currently, and it is impacting our daily
25 operations at the institution. I have had some conversation.
26 I've also posed a recommendation to the Director at this point
27 to maybe even move some of our current population that are in
28 what we refer to as a nonconventional beds, out of that

1 institution to lower our staff capacity at the institutions.

2 In addition to that, under the direction of the
3 Director and Agency, we've established a wardens advisory group
4 that is taking a look right now at establishing some
5 satellite --

6 CHAIRMAN PERATA: That must be a fun group.

7 [Laughter.]

8 MR. GIURBINO: Actually they are. And the
9 individual that's in charge of this particular group is Warden
10 Tom Felker from High Desert State Prison, and he's sitting
11 somewhere behind me right now.

12 But they're compiling some plans to develop some
13 local site academies in which he's --

14 CHAIRMAN PERATA: He's playing a Game Boy.

15 [Laughter.]

16 MR. GIURBINO: -- in which he's had much success
17 in having a local academy up in the Susanville area, where you
18 have young families, where it's very difficult for them to
19 relocate and come to the Galt area, where our basic academy is,
20 where he's provided the academy in his existing institution
21 using shared staff between the academy and his own staff, which
22 seemed to cut down cost. And it also kept the individuals that
23 were hired through this process at the institution because they
24 already lived there.

25 He's currently working with Warden Evans at
26 Salinas Valley State Prison, where we're trying to set up,
27 hopefully, a similar process in the Monterey area as well.

28 CHAIRMAN PERATA: Thank you.

1 Roy?

2 SENATOR ASHBURN: I want to go back to your last
3 comment about the plan for adding beds, and the evaluation that
4 was made maybe not by you, but those in the chain of command,
5 that evaluated the physical capacity of the each of the
6 facilities: what the prison condition is, the water, the sewer,
7 the other infrastructure that would support.

8 And you said that consideration was not given to
9 another essential ingredient -- those are my words -- to the
10 operation of the facility, which would be the ability to staff
11 it.

12 Was that considered or not considered in the
13 plan?

14 MR. GIURBINO: At that point in time, the
15 elements of staffing were not at a critical nature as they are
16 today when those plans were being developed.

17 SENATOR ASHBURN: Well, wait a minute. That's
18 not very long ago. I mean, we just dealt with this a very short
19 time ago.

20 The plan for adding beds is a relatively fresh
21 product.

22 So, I mean, I don't know quite how to ask this
23 in a way that won't get you in trouble, because I looked at the
24 organizational chart, and there are number of people on the
25 chart above you.

26 That doesn't mean that your job is not
27 extraordinarily important, because I think it is, and the other
28 gentleman who's here for confirmation.

1 But how can it be that in a plan presented to the
2 Legislature to authorize money to add beds into the prison
3 system -- I mean, I think that's documented that we need
4 additional capacity for the inmates that we have -- that the
5 staffing was not considered? How could that be?

6 MR. GIURBINO: As I prefaced the question, I
7 didn't want to speak out of turn because I wasn't a part of that
8 team that actually made those decisions --

9 SENATOR ASHBURN: That's a fair answer. I
10 appreciate that.

11 MR. GIURBINO: -- at that time.

12 But also something that should be recognized,
13 through the creation of the additional housing structure that
14 would house 400, it's also understood that the population at the
15 institution, where they have nonconventional beds, would also
16 drop by hopefully a similar amount. So, it would not
17 significantly increase the staff capacity needs of the
18 particular institution.

19 SENATOR ASHBURN: It seems to me if I were doing
20 your job, what I'd want to do is inventory the tools that I have
21 to have to do your job.

22 How important among the tools that you have to
23 have is staff?

24 MR. GIURBINO: Previously I indicated that
25 there's about five components that I view that are critical to
26 operating the institution.

27 SENATOR ASHBURN: Where does staff fall?

28 MR. GIURBINO: Staff was up at the very top, and

1 physical plant structure --

2 SENATOR ASHBURN: So, we have a staff shortage in
3 the Department of Corrections.

4 We talked about, you know, market conditions, and
5 higher cost communities, but Corrections jobs are good jobs.
6 This is state employment. It's Civil Service employment. These
7 are good salaries with very, very good benefits.

8 Do you think the state is not a good employer,
9 that we're not attracting people to this line of work?

10 What do you think the problem is?

11 And I'm asking you to speak outside of your
12 immediate area of responsibility, but you're an observer of the
13 entire system as well.

14 MR. GIURBINO: Yes, sir.

15 I believe that you might be familiar, a couple
16 years back we had as a means of trying to maintain and balance
17 our budget operationally, there was a closure of the academy.
18 And the academy remained closed for about a year's period of
19 time.

20 SENATOR ASHBURN: When did that happen?

21 MR. GIURBINO: I'm going to say about three years
22 ago.

23 SENATOR ASHBURN: The academy just shut the --

24 MR. GIURBINO: Correct.

25 SENATOR ASHBURN: No new employees coming through
26 academy?

27 MR. GIURBINO: Correct.

28 And during that timeframe, our -- our peace

1 officer positions over the course of the next year ended up
2 being dissipated at different institutions.

3 So, we find ourselves now in a position where
4 we're trying to increase our cadets in a manner in which we can
5 populate our academies. However, at the same time, we're also
6 combatting additional population that requires additional
7 staffing. We have a health care program in our institution that
8 is -- demands additional medical guarding and medical
9 transportation, so additional positions are being created which
10 are continuously at this point keeping us chasing that
11 position.

12 However, in addition to the satellite academies,
13 the Director has also shared information that we're also looking
14 to expand and have a southern regional academy as well to
15 further take care of the vacancies, and so we can process folks
16 through the academies.

17 SENATOR ASHBURN: Are you satisfied that there's
18 an overall employment plan within the department?

19 In other words, someone can fairly forecast how
20 many employees are needed today, how many are going to be needed
21 a year from now, given the if changes that have been approved or
22 changes that are coming down from the Receiver with respect to
23 the health requirements. I mean, someone should be able to
24 fairly, within ranges, forecast that, and then develop an
25 employment recruitment, training, and certification plan for
26 those employees to get on the job.

27 Does the department have that?

28 MR. GIURBINO: Yes, we have a Personnel

1 Department. We also have a Peace Officer Selections and
2 Standards Department. And we also have a division where we
3 monitor and manage our personnel -- our POST assignment
4 schedules at the institution.

5 SENATOR ASHBURN: My point is this. You have an
6 extraordinary responsibility for the safe keeping of the most
7 dangerous felons in the state.

8 Now, your ability to do the job that you're being
9 considered for confirmation depends not just on yourself, but on
10 the support of the department and the systems in place within
11 the department to provide you, again, the tools that you need.

12 I need you to tell me whether you believe the
13 department is adequately prepared to deal with the employment
14 need so that you can do your job.

15 MR. GIURBINO: I can state that today, as we're
16 speaking, I don't have the staffing to be able to; with a 20
17 percent vacancy rate --

18 SENATOR ASHBURN: I get that.

19 I want to know, does the department in your view
20 have the system in place to adequately meet the staffing needs
21 that you're going to have to have in order to do your job?

22 You're allowed to criticize. In fact, you're
23 encouraged to critique.

24 [Laughter.]

25 MR. GIURBINO: I believe that we have an academy
26 in place. But even with that academy in place, we won't be able
27 to provide the staffing necessary for about two years.

28 SENATOR ASHBURN: Why is that?

1 MR. GIURBINO: It's because of the amount of time
2 that the --

3 SENATOR ASHBURN: You talked about regional
4 academies. Why can't we accelerate the -- if C.C. Meyers can go
5 over to -- was that in your district, Senator Perata -- the
6 bridge falls down. The government inspectors come in and say
7 it's going to take a long time. A guy rides in on a white horse
8 and says, "I'll do it in half the time." And we get it done.
9 Yeah, we've got to pay a little bit more for that, but consider
10 the safety and the convenience to the public that is saved in
11 that process, not to mention the air pollution and other
12 benefits.

13 You're in an emergency condition in the
14 Department of Corrections. And I need to know if things are
15 being done to handle an emergency condition of understaffing.

16 One of the things that we're upset about is that
17 we see this in budget augmentations, deficiency approvals. The
18 department spent more on overtime because you're understaffed,
19 and the existing staff have to work overtime hours, which are
20 much more expensive and very taxing on the employees, raising
21 other risks with respect to safety and security.

22 So, that's how we see it. We don't like that.
23 And that's not a Democrat or Republican issue. There ought to
24 be the number of employees that there ought to be.

25 So, I'll go again. Is there a plan in place to
26 have the academies, whether they be regional, or local, or one
27 state academy, to turn out the employees that your department
28 needs? And if there are not, what should we be doing to fix

1 it?

2 MR. GIURBINO: The plan that the Agency Secretary
3 has at this point, as it's been related through the Director to
4 me is, we're in the process of siting an additional academy to
5 meet our ongoing needs.

6 In addition, my mission-based group has been
7 asked to bring wardens together for some satellite academies as
8 well. And that's the plans that I'm aware of for opening up
9 additional academies.

10 SENATOR ASHBURN: But at the same time that
11 Senator Perata described to you that the Legislature is
12 authorizing dollars to build beds, for example, at Salinas,
13 you're saying that you're proposing to take inmates out of that
14 facility to reduce the population because you don't have the
15 staff to deal with the population that's there today.

16 We were told, "Vote yes and you get to bring more
17 prisoners into that facility."

18 What opportunity do you have to speak directly on
19 issues like this to the Agency Secretary, and to the directors,
20 supervisors above you?

21 MR. GIURBINO: The method in which we normally
22 communicate is, I meet normally on a weekly basis with the
23 Deputy Director, who shares information from the agency in
24 meetings that the Director attends.

25 I would say on a -- every two weeks we meet with
26 staff from agency, and it'll be different representatives. I
27 may meet with the Chief Deputy for Adult Programs, Marisela
28 Montes, concerning programs that we're having, or it may be a

1 mission-based meeting concerning issues that are taking place
2 within our missions, where it may be the Deputy Director of
3 Adult Institutions.

4 SENATOR ASHBURN: I just have an uneasy feeling
5 that if I end my questioning now, this issue of staffing, which
6 is bigger than your area of responsibility, because it will also
7 affect Mr. Kane's area of responsibility, as it will also affect
8 others that we look to in leadership within the Department of
9 Corrections and Rehabilitation, that maybe something isn't going
10 to happen here as far as the recruiting and the academies
11 necessary to turn out the employees.

12 And I think I've heard you say in several
13 different ways, you don't have the number of employees you need.
14 You don't think you're going to have the number that you need to
15 do your job.

16 I am very concerned about that. I guess I'm
17 looking for some assurance from you that, as one person in a
18 very critical position within this organization, you're not
19 going to turn loose on that issue.

20 In other words, you're going to carry my concern
21 forward that this is -- I believe that this is an emergency
22 condition within the department that requires extraordinary
23 action to get the number of employees that we need to adequately
24 staff, and we need to do so as quickly as possible.

25 MR. GIURBINO: And that I understand, yes, I do.

26 SENATOR ASHBURN: Do you agree or disagree?

27 MR. GIURBINO: I absolutely agree.

28 SENATOR ASHBURN: Thank you.

1 CHAIRMAN PERATA: Good answer.
2 We're going to give the stenographer a ten-minute
3 break so her fingers will work.

4 [Thereupon a brief recess
5 was taken.]

6 CHAIRMAN PERATA: We will reconvene.
7 Would anyone in the audience like to come forward
8 to speak in favor of the nominee?

9 MR. WARREN: Good afternoon, Mr. Perata.
10 Yes, I know, I am speaking in favor. And no,
11 it's not like Redd Foxx, "It's the big one."

12 [Laughter.]

13 MR. WARREN: My name is David Warren. I'm with
14 Taxpayers for Improving Public Safety.

15 And I know my reputation precedes me, that I'm
16 assumed to be speaking against someone at these hearings.

17 I've known the nominee for over a decade. I
18 have nothing but the highest respect and esteem for
19 Mr. Giurbino.

20 There have -- I have had meetings with him where
21 we have been in opposite positions on various issues, but he's
22 always showed me the courtesy not only to listen to my
23 presentation of the facts I'd submitted, but also to provide a
24 reasonable explanation as to why he disagreed with me. There is
25 not, "It's my way or the highway, this is why."

26 I would like to point out one very specific
27 incident. I received information that an inmate who had been
28 transferred out of Pelican Bay was going to be subject to an

1 attack by other gang members at a prison where Mr. Giurbino was
2 not located. I called the warden there, and because that warden
3 was not familiar with who I was, essentially no action was
4 taken.

5 I called Mr. Giurbino. He then called the
6 warden, and moments before the inmate was going to be attacked,
7 the correctional officer happened to come on the scene because
8 of the warning.

9 It took a lot for him to take his time from his
10 busy day to answer this kind of request when he could have just
11 ignored it.

12 I know many, many people at the Department of
13 Corrections. I have nothing but the highest respect for
14 Mr. Giurbino, and I clearly hope that you confirm his
15 nomination.

16 Mr. Perata also granted me a special
17 dispensation. I have a shiva minion I have to go to,
18 unfortunately, in my community.

19 CHAIRMAN PERATA: We don't hear that excuse
20 often, so I accepted it.

21 MR. WARREN: I have to get back for that.

22 I'd like to speak in support of Mr. Kane also. I
23 already gave the personal message from Rabbi Ira Book to the
24 Chairperson, and I hope that he takes it to heart.

25 I have nothing but the deepest respect for
26 Mr. Kane. There have been two recent incidents at Folsom Prison
27 in which Mr. Kane has become directly involved. Both of them
28 have unfortunately been precipitated by myself.

1 One was, there was an employee who left a
2 threatening phone call for Matt Gray and myself, and we provided
3 that information to the warden. And as a result, there's been
4 some very false accusations made, and I have nothing but the
5 highest respect for the manner in which Mr. Kane and Warden
6 Kramer have dealt with the matter by taking the high road. And
7 I think that that is an example of the kind of person we need.

8 The second incident arose where there's an
9 individual at the prison who had difficulty with the way Rabbi
10 Book and I were conducting the religious service. This was
11 while Mr. Kramer was on vacation.

12 Mr. Kane immediately stepped in and assisted both
13 Rabbi Book and myself in resolving that issue.

14 It takes a lot for a high administrator take the
15 time from so many crises to deal with an individual issue which
16 is important to 150 men at a particular prison, and for that
17 reason I hope that you endorse him.

18 Thank you very much.

19 CHAIRMAN PERATA: Thank you.

20 He has not made any fatal mistakes, so you don't
21 have to go on too long.

22 [Laughter.]

23 MS. ESTES-DANGERFIELD: Okay.

24 Thank you for this time. My is Darlene
25 Estes-Dangerfield. I am the President of the Association of
26 Black Correctional Workers, the former Legislative Liaison for
27 ABCW.

28 And I'm going to pass the torch on to Mr. Chris

1 Brown, who will give the voice of the members.

2 But thank you for your time.

3 CHAIRMAN PERATA: Thank you.

4 MR. BROWN: Good afternoon.

5 My name is Chris Brown. I am the current
6 Legislative Liaison for the Association of Black Correctional
7 Workers.

8 And we offer our complete support for
9 Mr. Giurbino's confirmation.

10 CHAIRMAN PERATA: Thank you.

11 MS. ESTES-DANGERFIELD: And while her little
12 figures are going, I just want it on the record, that is a
13 beautiful top.

14 [Laughter.]

15 CHAIRMAN PERATA: It is now on the record.

16 [Laughter.]

17 CHAIRMAN PERATA: Anyone further?

18 Well, sir, I just want to thank you for the work
19 that you do. You've dedicated yourself to a career that I guess
20 in most instances, and from this distance, looks pretty
21 thankless. But you've dispatched yourself very well.

22 This Committee, I'm sure, would be very proud to
23 support you, and we're about to find out if I'm right.

24 Any opposition? I apologize.

25 Seeing none -- they didn't look like opponents;
26 you can tell -- we have a motion to approve?

27 SENATOR ASHBURN: You do, with just one comment,
28 Mr. President, if I can.

1 I want to thank you for your answers. And the
2 scope of my questions went beyond your position, but I hope
3 others were listening.

4 I also want to mention my sympathy with respect
5 to your son and the terrible circumstance there, and the
6 beginning of the trial. Our hearts and prayers and thoughts are
7 with you, and your wife, and your son, and family members.

8 MR. GIURBINO: Thank you.

9 SENATOR ASHBURN: God bless you.

10 CHAIRMAN PERATA: Please call the roll.

11 SECRETARY WEBB: Cedillo.

12 SENATOR CEDILLO: Aye.

13 SECRETARY WEBB: Cedillo Aye. Dutton.

14 SENATOR DUTTON: Aye.

15 SECRETARY WEBB: Dutton Aye. Padilla.

16 SENATOR PADILLA: Aye.

17 SECRETARY WEBB: Padilla Aye. Ashburn.

18 SENATOR ASHBURN: Aye.

19 SECRETARY WEBB: Ashburn Aye. Perata.

20 CHAIRMAN PERATA: Aye.

21 SECRETARY WEBB: Perata Aye. Five to zero.

22 CHAIRMAN PERATA: Five-zero, congratulations to
23 you.

24 MR. GIURBINO: Thank you.

25 CHAIRMAN PERATA: Now Mr. Kane.

26 MR. KANE: Good afternoon.

27 CHAIRMAN PERATA: How are you?

28 MR. KANE: Fine, sir. How are you doing?

1 CHAIRMAN PERATA: George got rid of a lot of
2 stuff, so --

3 MR. KANE: I'm glad he did. I really am.

4 [Laughter.]

5 CHAIRMAN PERATA: Good blocking back, took down
6 most of the --

7 MR. KANE: Yes, sir.

8 CHAIRMAN PERATA: Why don't you go ahead and
9 open, sir.

10 MR. KANE: Can I introduce my family?

11 CHAIRMAN PERATA: Oh, absolutely.

12 MR. KANE: Thank you sir.

13 I'd like to introduce my mother and father, Ted
14 and Mary Kane. They've been married 56 years.

15 [Applause.]

16 MR. KANE: My father served two tours in Vietnam
17 and is a Bronze Star recipient. I'd like that to be on the
18 record.

19 My lovely wife, Randy. My two daughters, Kaitlin
20 and Cleopatra. And my son-in-law, Jason Harris. And my
21 daughter and son-in-law just blessed us with a baby boy one
22 month ago, little Jason.

23 [Applause.]

24 CHAIRMAN PERATA: All right, we have a motion to
25 approve.

26 [Laughter.]

27 MR. KANE: Mr. Chairman, Senators, members of the
28 your staff, I would like to thank you for this opportunity to

1 appear before you today.

2 I have invested the last 28 years of my adult
3 life in the protection of public safety. I started as a
4 correctional officer and worked my way up through the ranks to
5 the position I now hold as the Associate Director of Level II,
6 III, CCFs, and Camps.

7 A recurring question I've been asked recently is
8 why do I want this job? I can understand why this question has
9 been asked of me, and sometimes I ask myself the same question.

10 My answer to the question is that I would like to
11 be part -- to take part in making positive changes to this
12 department, and to give back to CDCR what has been afforded to
13 me.

14 During my career I've had great mentoring,
15 training, and leadership. While making a change to our system
16 is not an easy task, not only are we changing the perception of
17 the department, we are also striving to help make a positive
18 change in our offenders.

19 We have to put our offenders back into society
20 with the educational, vocational, and substance abuse treatment
21 that will make our communities safe and reduce the high
22 recidivism cycle that California is experiencing today.

23 I feel I have the energy, passion and desire to
24 assist in making this change. My desire is to be a change agent
25 and a leader that will assist in steering this department in a
26 positive direction.

27 At this time I'd like to publically acknowledge
28 and thank my parents, my wife, and my children for their

1 support, and the sacrifices they have made and will continue to
2 make throughout my career.

3 I am honored to have been appointed by the
4 Governor to serve all the people of California in what I think
5 possibly is one of the most challenging positions in state
6 government.

7 I would also like to recognize my dedicated
8 staff, wardens, and all the correctional professionals that I
9 ever have been associated with, and their continued support for
10 the challenges that we face now and in the future.

11 Thank you for your time, and I am open to any
12 questions you may have.

13 CHAIRMAN PERATA: Thank you, sir.

14 You've got the Level II and III, and there's
15 about 40,000 inmates under your jurisdiction.

16 Some of the concerns have been mentioned, but
17 sort of concern we've had, and it's gone through everything that
18 we've done, has been the rehabilitation part. The Governor said
19 that he wanted to put "R" back in Corrections. He changed the
20 name for that purpose.

21 So, things like distance learning, what's the
22 status of that right now? How are we doing, and plans for the
23 future?

24 MR. KANE: Well, that was an error in my
25 document. It's the Corrections Learning Network, which is
26 televised throughout the prisons and provides educational
27 training to those inmates that are in cell or in school with
28 additional help in self-study.

1 Currently I have one institution that's in the
2 process of fully implementing this program. My goal is to have
3 that at all eight of my prisons fully operational.

4 CHAIRMAN PERATA: And this is like a program, an
5 educational program, or a series of programs?

6 MR. KANE: Yes, sir, exactly.

7 CHAIRMAN PERATA: Does it degree course work?
8 Does it lead to a high school equivalency?

9 MR. KANE: Yes, sir, it does. And also, we have
10 Coastline Community Colleges. That is a brethren of our system
11 that also shows those college classes in hopes that the inmates
12 get an AA degree.

13 CHAIRMAN PERATA: Is this a matter of funding to
14 get it to all of your institutions.

15 MR. KANE: Partly funding, partly staffing.
16 Purchasing equipment and getting it fully implemented, getting
17 the tech support that's needed. And that's my job, to support
18 my wardens and ensure that this will happen.

19 CHAIRMAN PERATA: When we had Ms. Montes here
20 recently, we were talking about the high degree of vacancies, or
21 allocated positions versus filled spots for teaching, and how
22 even the 1600 is a bleak number when cast against not only the
23 number of potential students, but the degree of acuity that a
24 lot of these people probably have in learning.

25 I don't know how to put this without sounding
26 like Roy, but would you tell me honestly --

27 [Laughter.]

28 CHAIRMAN PERATA: -- at no small risk to your

1 future, I am interested in how confident you are, given the .
2 position that you have, that there is going to be the
3 appropriate emphasis given, and that means financial resources,
4 to get done what needs to get done on the rehabilitation side?

5 MR. KANE: I'm very confident.

6 I also believe with the tools that you fine
7 gentlemen and ladies gave us with AB 900, it will take inmates
8 that are out of the bad beds, the beds that are in day rooms,
9 gymnasiums, and put those areas to use for programing,
10 educational programming, substance abuse programming, and give
11 us the arena to put that "R" back into CDC.

12 CHAIRMAN PERATA: How does the transfer policy,
13 where you take an inmate from Point A and send them to Point B,
14 how does that work? Who makes those decisions?

15 MR. KANE: Well, it could be a series. Let's
16 start with basics.

17 An inmate who was in George's facility,
18 Mr. Giurbino's, is behaving himself. His point's reduced from a
19 Level IV to a Level III. Now he's inappropriately placed. He's
20 out of level.

21 So, the staff at that institution will put him up
22 to the Classification Services Unit for endorsement to another
23 institution of an appropriate level, possibly one of my
24 institutions. The inmate goes to Classification. His file, the
25 documents, go in front of the CSR, and they endorse him to
26 another institution. So, that's one way that it's done.

27 It's also done out of the Reception Center. When
28 the inmate is done with his Reception Center processing, the CSR

1 send them to the appropriate institution incumbent with their
2 level. For example, if the inmate qualifies for fire camp, he
3 will either go to one of my two institutions, SCC or CCC, and
4 start that process to become a firefighter. Or, if he's a Level
5 II or Level III, they will send him to those appropriate
6 institutions.

7 Or unfortunately, if the inmate meets the
8 criteria for Level IV, he will go to that level of institution.

9 We also have hardship transfer requests. The
10 inmate's parents or wife could be suffering traumatic medical
11 issues, and the inmate puts in a request to be closer to his
12 family so he can get the last visits before something serious
13 happens to his loved ones.

14 So, that's some of the multiple ways that
15 transfer happens.

16 CHAIRMAN PERATA: If the transferree is in the
17 middle of some program, can he or she asked to wait until their
18 course of work is completed?

19 MR. KANE: No, sir. Once the transfer is set by
20 CSR and set by the staff, the transfer will occur.

21 But in talking to the Senate Rules Committee, it
22 was brought to my attention, and that's a very good point, that
23 I'm going to be involved when inmates who are, let's say, trying
24 to get a welding degree, and are, you know, three weeks, four
25 weeks, five weeks out from getting that degree, I feel that they
26 should stay. Finish that process and then transfer afterwards.

27 And that's where I'm going to be working and
28 making a stance to make sure that happens.

1 CHAIRMAN PERATA: Took care of me.

2 SENATOR PADILLA: You shared that with me
3 yesterday. What's the saying, "Common sense isn't always common
4 practice." Perfect example.

5 You heard my questions to your colleague earlier,
6 the three areas: one about the lawsuits; one about recruitment;
7 and one about contraband, specifically cell phones.

8 I want to just pose the same questions to you, to
9 offer your opinions or perspective. We talked about it a little
10 bit yesterday, starting with the lawsuits, and how the pending
11 federal litigation impacts your day-to-day ability to do your
12 job.

13 MR. KANE: Yes, sir, it does.

14 You know, our staff are working hard to get out
15 of these lawsuits, to come into compliance.

16 Our Director has decided to have a liaison from
17 our division to assist in these lawsuits. My part of it is that
18 I am the liaison for the Armstrong court injunction.

19 We have Theresa Schwartz, who's the liaison for
20 the Coleman lawsuit, and George Giurbino, he is the liaison for
21 Frietag. And my staff have been working hard and diligent with
22 all the staff in the department to bring this lawsuit, my part
23 of it, to closure.

24 It's unfortunate we had to get to this stage, but
25 I feel that we can get out it by hard work and coming in
26 compliance.

27 SENATOR PADILLA: On the recruitment and
28 background investigation topic?

1 MR. KANE: As we talked before, or as I listened
2 to the questions that Mr. Giurbino went through, I will agree.
3 We are in crisis when it comes to recruitment. I'm not going to
4 sit here and tell you any fable that we're not.

5 But I feel that I have faith in our Secretary
6 coming up with a plan to curb the areas where we need to be --
7 have recruitment, have satellite academies at these
8 hard-to-recruit institutions.

9 Go back to our contract with the colleges, we
10 were pretty successful with, you know, Napa City College and a
11 lot of the colleges. We're running academies out of those
12 areas.

13 And I think we should just have a blitz. I think
14 we should have a blitz on T.V., radio, papers, taxicabs, where
15 ever we can put out the word that we're hiring, and we're
16 looking for good people.

17 And to assist by not letting the sergeants get
18 out of the backgrounds. They're processing applications,
19 filling the academies, and that's what we need.

20 In fact, I recruited my son-in-law to join the
21 department. He's going through the process now.

22 So, everybody needs to get the word out, and
23 that's how we're going to get over this --

24 SENATOR ASHBURN: Did he volunteer?

25 [Laughter.]

26 MR. KANE: Well, it took a long, long talk.

27 CHAIRMAN PERATA: Was this before or after you
28 let him get married to your daughter?

1 [Laughter.]

2 MR. KANE: I got him in the family first, then I
3 talked to him.

4 CHAIRMAN PERATA: Lock him down; that's good.

5 [Laughter.]

6 SENATOR PADILLA: I think we are in receipt of a
7 speaker card with his name on it.

8 To be clear and so I understand what you're
9 saying, the question about the background investigation
10 function, and whether that function is fulfilled by correctional
11 staff versus analysts, your opinion? It can be done by either
12 person, it doesn't matter; it doesn't affect the quality of that
13 job?

14 Or is there a difference in the quality of the
15 job?

16 MR. KANE: I believe there is a difference. I
17 believe that the supervisors, the sergeants, have an invested
18 interest in filling those academies.

19 I believe those sergeants have felt the hardship
20 of drafting officers because they have vacancies, and they could
21 not run programs without those officers there.

22 I know they feel the blunt of being drafted
23 themselves because of lack of staffing. I know that they've
24 been drafted to work officer positions because we just didn't
25 have the staff for public safety.

26 So, they have a vested interest, and they're
27 working hard.

28 SENATOR PADILLA: And I would agree with you.

1 That's why I've asked the question a couple of times.

2 Not only the vested interest in making sure the
3 job gets done, and we know there's a lot of obstacles to the
4 completion of recruitment at the numbers and the rates that we
5 need to, but also in the quality of it.

6 And I base that both on these conversations and
7 my experience back at the local level when it comes to
8 recruitment and retention of peace officers at a municipal
9 level.

10 The last area is in the area of contraband, cell
11 phones specifically, for those facilities under your watch. Is
12 there a problem? How big is the problem? The nature of the
13 problem? What can we do to address it?

14 MR. KANE: It is a tremendous problem. I have
15 one institution in Solano, California where last year they
16 confiscated over a thousand cell phones, including
17 Blackberries.

18 It breaches our security. It allows the inmates
19 to conspire with people on the street to commit crimes. It
20 allows the inmates, the offenders, to conspire with visitors who
21 bring in narcotics. And it could compromise our institutions as
22 far as a planned escape.

23 Our staff are working hard and diligent to remove
24 them, but as fast as they remove them, they just pop back up
25 like they're growing like flowers.

26 SENATOR PADILLA: Are you aware of any system to
27 collect information, to collect data, on cell phone
28 confiscations?

1 MR. KANE: My staff at CSP Solano has done a heck
2 of a job in collecting data on the confiscation of cell phones.

3 I can't honestly sit here and say that it's the
4 same way throughout the whole department, because sometimes you
5 get one cell phone here and one cell phone there. And it's
6 treated as contraband when it's found not on an inmate, but
7 charge an inmate when it is.

8 Solano, because of all the contraband, all the
9 cell phones they have located, they've taken that step to
10 document it and make sure that they have accurate records and
11 pictures of all the phones they confiscated. And one day, I
12 would like to share those photos with you so you could see the
13 dilemma that we're in.

14 SENATOR PADILLA: I think it would be helpful for
15 us to begin to collect that information, facility by facility,
16 whether it's weekly, monthly, quarterly, so we can appreciate
17 the magnitude of the problem that it poses.

18 Any suggestions on what we can do to address it?

19 MR. KANE: We need to make the punishment more
20 severe. Right now it's just a suspension of visiting privileges
21 for the visitor if they get caught with it, and it's a lower
22 level penalty for the inmate.

23 What we need to do is to increase the penalty for
24 the inmate, and seek prosecution for the visitors or the staff,
25 or even the inmates when they're caught in possession of it, and
26 show them that we mean business by these contraband items not
27 coming in our prison.

28 SENATOR PADILLA: You answered my next question,

1 which was: Should we be focused on the inmates? Should we be
2 focused on visitors? Or should we be focused on personnel?

3 MR. KANE: All three.

4 SENATOR PADILLA: Thank you.

5 SENATOR CEDILLO: I may abbreviate this by
6 attaching myself to the comments of Senators Ashburn and
7 Padilla.

8 But I would add, and you can give me your
9 thoughts on this, but I do think that there is a fundamental
10 problem that will continue to affect our ability to recruit and
11 retain. That's the failure for us to have better collective
12 bargaining relationships. I think the fact that there always
13 seems to be a conflict with the union is problematic.

14 The high rate of vacancies, I heard the
15 explanation, and it seems to be a factor.

16 But I would say to you that just the failure of
17 not having the state seen as an employer that has a stable work
18 circumstance is a factor in choice. When people choose: I want
19 to work for a local police department; or I'll work for the
20 county sheriff; or I'll work for the state. I'll tell you that
21 that is a consideration.

22 The Senator pointed out that there's a lot of
23 positive aspects to why people would come in and be prison
24 guard. It's a good salary. It's civil service. It's good
25 benefits, good retirement. These are very affirmative reasons
26 why somebody would accept that.

27 But we're competing. We're competing with
28 probation, the county, city, other agencies. People who have

1 aspirations to be in law enforcement have choices, and they're
2 not choosing us.

3 And I think in large part it has to do with the
4 reputation that exists of how we run our facilities, how we run
5 our institutions, and how we treat the workforce.

6 I just offer that to you, and to all of you, that
7 we really need to work on improving those relationships and
8 filling those vacancies. And that will go a long way in
9 addressing a lot of the other ancillary concerns that we
10 have.

11 MR. KANE: I agree, Senator. Thank you.

12 SENATOR ASHBURN: Just a comment.

13 I just want to encourage your enthusiasm with
14 respect to the ability to accomplish what you have unequivocally
15 said you can accomplish in improving the training, and the
16 education, and the rehabilitation programs, and the intervention
17 in drug and alcohol. You're the key guy in that area and with
18 the level of inmates that you're going to be responsible for.

19 And I just encourage you in every way possible to
20 do those things that you articulated can be done, because that's
21 the area that we completely moved away from in dealing with the
22 inmate population in our state. And it has created a lot of
23 problems because people not only go into prison, they come out
24 of prison.

25 So, I encourage you in every way possible.

26 And I also didn't want you to feel that because I
27 didn't grill you about the issues of the employment, and the
28 staffing, and all of that, I know that that's a critical issue

1 to you, too.

2 And I urge your leadership within the chain of
3 command within the agency to not back down, and not to be shy
4 about challenging the leadership to try to do things the way
5 they ought to be done, and to move things with an sense of
6 urgency.

7 I appreciate you, sir, and wish you well.

8 I'll make the motion.

9 MR. KANE: Thank you.

10 CHAIRMAN PERATA: I want to talk to you briefly
11 about parole. It seems at your level of jurisdiction, you must
12 deal with parole, people who are coming out?

13 MR. KANE: We prepare them for parole and then
14 pass the baton to parole to carry through the rest of their
15 sentence.

16 CHAIRMAN PERATA: How do you prepare them?

17 MR. KANE: I think we prepare them everyday
18 through, as I said, educational, vocational, substance abuse.

19 Then -- now we have parole agents in our
20 institutions, and they do the pre-parole planning for the
21 inmates. They set them a course while they're out of the
22 prison, out in the community, for them to follow.

23 I think it's going to be critical that we follow
24 Mr. Tilton's vision and have the re-entry facilities so they can
25 come out of the prisons prior to their parole and get that
26 on-hand treatment that they need to go into society. Instead of
27 walking out the gate, walk out of a re-entry facility.

28 Plus, have the community involvement. Have the

1 construction companies come in and recruit the inmates for jobs
2 prior to them leaving. Have the V.A. come in and tell the
3 inmates what kind of benefits they qualify before they go out
4 into the community. Have DMV come in and get their driver's
5 license or get their identification card, so when they walk out,
6 they can cash a check.

7 All of these things can be done at the re-entry
8 facilities for the inmates that parole.

9 So that -- I hope I answered your question.

10 CHAIRMAN PERATA: You did.

11 I think the same thing goes for Mr. Kane that
12 went for the previous nominee. You don't need to sweat this,
13 but if you want to come up and say a few words. Of course, we
14 disqualify the family.

15 [Laughter.]

16 SENATOR CEDILLO: What you just said is something
17 that I agree with, all these thoughts for discharge planning:
18 how we create this bridge; how we make these transitions.

19 Are there things that we need to do to assist you
20 to realize this?

21 MR. KANE: I think you've already started:
22 giving us the funding; giving us the support; giving us your
23 approval to go out and open these facilities.

24 We've already had counties that have volunteered
25 right away to build these in their counties, because they
26 realize also a better product will come out into their
27 communities if they become partners with the Department of
28 Corrections and Rehabilitation.

1 I think you've already started, sir. I think you
2 guys have done a wonderful job.

3 CHAIRMAN PERATA: There are places that I've
4 heard of -- I confess I've never been to -- Susanville and
5 Blythe, to name two.

6 MR. KANE: I've been there, sir. Beautiful
7 places.

8 [Laughter.]

9 CHAIRMAN PERATA: Probably why I have not been
10 there.

11 But do you get rides on the Governor's G-5? How
12 do you get to these places?

13 [Laughter.]

14 CHAIRMAN PERATA: Did you know he had a G-5?

15 [Laughter.]

16 MR. KANE: No, sir, I didn't.

17 Scheduling. Having family that supports me, know
18 that I'll be on the road. Knows that I have to get out and meet
19 with my wardens, and their staff, and the offenders, and get to
20 see someone from Sacramento.

21 I'm particularly proud to be out at our camps,
22 because a lot of the places have only seen a warden. They've
23 never seen an Associate Director or higher.

24 CHAIRMAN PERATA: I believe that's true.

25 MR. KANE: And these are some of the most
26 dedicated staff that go out and fight our fires, protect
27 California, and meet Cal FIRE, their staff that are dedicated,
28 and they're going to some of the remote places that you and I

1 could only imagine of being, and give that dedication and
2 service.

3 So, I think the answer to that question is a
4 supportable wife that knows what my role is and supports me to
5 get out there and visit these areas.

6 CHAIRMAN PERATA: Anyone here who would like to
7 come up and say something in favor? I'm not much disposed to
8 listening to any opposition today.

9 MR. RODRIGUEZ: My name is William Rodriguez,
10 and I'm currently an Associate Warden at California State
11 Prison, Solano.

12 First of all, I'd like to say that I'd like to
13 take this opportunity to say it's a great honor and privilege to
14 be speaking at Mr. Kane's confirmation hearing in support of
15 him.

16 I've known Mr. Kane for over ten years. And I
17 think that one of the things that I admire about Mr. Kane is
18 that his professional life and his personal life mirror each
19 other. What I mean by that is, that when I think of what
20 Mr. Kane stands for, I think of loyal, hard working, ethical,
21 good son, loving father, good husband, grandfather, father.

22 I've worked at two institutions with Mr. Kane.
23 At both institutions he's been well-respected by the staff and
24 inmates. Mr. Kane has a reputation of being firm but fair,
25 which has earned him the reputation of being very ethical.

26 So, I would just like to go on the record that
27 I'm in full support of Mr. Kane. I think Arnold Schwarzenegger
28 and the California Department of Corrections and Rehabilitation

1 management staff has made an excellent choice in selecting
2 Mr. Kane for Associate Director.

3 CHAIRMAN PERATA: Thank you, sir.

4 MR. NUNEZ: My name is John Nunez. I'm a retired
5 captain, San Quentin State Prison.

6 I'd go on -- I'd like to talk about Mr. Kane, but
7 Mr. Rodriguez here, he covered many of the things I was going to
8 talk about: Ethical, honest, hard working.

9 I worked with Mr. Kane for approximately 15
10 years. And as I had the good work ethics, was up at 6:00 in the
11 morning, usually at 5:30 in the morning, Mr. Kane was already at
12 work. And he used to say, "Captain, let's go through the walk."

13 We'd walk around, identify problems. And this I
14 did learn from Mr. Kane the years I worked for him, about
15 walking around, management walking around and being the example.

16 That's all that I have.

17 CHAIRMAN PERATA: Thank you.

18 MR. BROWN: Mr. Chair, Members of the Committee,
19 my name is Chris Brown, Legislative Liaison for the Association
20 of Black Correctional Workers.

21 And we offer our complete support for the
22 confirmation of Mr. Tony Kane to the position of Associate
23 Director.

24 CHAIRMAN PERATA: Thank you.

25 MR. SISTO: My name's Kris Sisto. I'm the
26 Warden at California State Prison, Solano, the phone factory.

27 I'm pleased to be here, and am in full support of
28 Tony in this process.

1 But there's some things that he didn't tell you
2 about that I think you all need to know about Tony.

3 He talked about the cell phones, and the number
4 of phones that we've discovered at the institution.

5 What he didn't tell you was how he gave me the
6 support that I needed to find those phones. Through his efforts
7 and through his interest, we were able to use resources out of
8 Headquarters, Office of Internal Affairs, where we have numerous
9 investigations going on right now that are helping us find these
10 phones.

11 These phones aren't coming in one at a time. We
12 have actually caught staff bringing phones into institution, as
13 much as 35 to 50 phones at a time.

14 It's a big profit for those people, when you
15 consider they're getting anywhere from \$400, \$500, \$600 a phone.
16 It's not a felony, so they're not as worried about getting
17 caught.

18 That's why we think we need to strengthen the
19 laws in terms of how we deal with these incidents.

20 There are phones coming in through visiting.
21 There are phones coming in through packages. But our experience
22 right now is that they're coming in from staff. We still, at
23 this point, have several staff under investigation.

24 Without Tony's support, we would not be where we
25 are today in terms of the phones.

26 One other thing that I would like to bring up is
27 that at our institution, for years we've had a gang problem.
28 One of the jobs that I was given when I took over this

1 assignment, and Tony was part of that, is that we had to get
2 control of our gangs in that institution, due to all the
3 modified programs that we were having at the institution.

4 There are a number of things that I had to do to
5 make that happen. Things that I didn't really have the
6 authority to do, that took Tony's authority, or the authority of
7 his bosses. He's been there the whole time to help us do that.

8 We inherited a yard, or a prison, where all four
9 facilities were down for some reason. We now are about to open
10 up our last facility to full programming.

11 When you talk about adding the "R" to CDC, we
12 can't run prisons under lockdown conditions. Tony continues to
13 remind us of that.

14 You need to know of something he did very special
15 for us just recently.

16 For ten months, I've had one yard of Southern
17 Hispanic inmates and Blacks on lockdown status. Very difficult
18 to offer programs to the general population when we're having to
19 work around the lockdown inmates.

20 For about six months, we've been trying to get
21 these groups to meet so we can get them out and programming.

22 Tony was very instrumental in helping me, giving
23 me guidance, giving me some authority to do some things to get
24 these guys to the table.

25 He not only did that, he showed up. And he was
26 there with us when we met with the groups.

27 One of the problems that we were having in
28 getting this communication going was, we couldn't get the Blacks

1 to open up to talk. It took Tony about 10 minutes.

2 Right now, they're -- they're talking. They're
3 working together. And probably within two weeks, we'll be
4 opening up our last facility.

5 He needs to be recognized for that because he is
6 that kind of a person.

7 On the behalf of the staff at Solano, we fully
8 support him. And I'm sure on behalf of the wardens that are
9 here, which is all of his wardens who are here in solidarity to
10 support him.

11 Thank you.

12 SENATOR ASHBURN: Can I ask just one question?

13 Sir, can I just ask you one question?

14 With the staff that's bringing in dozens of cell
15 phones, are you able to discipline that employee?

16 MR. SISTO: We -- the ones that we've actually
17 caught have been fired.

18 CHAIRMAN PERATA: That's good discipline.

19 [Laughter.]

20 SENATOR ASHBURN: And you're able to do that --

21 MR. SISTO: Yes.

22 SENATOR ASHBURN: -- as soon as you gather
23 this --

24 MR. SISTO: Through our investigative process, we
25 have fired them.

26 SENATOR ASHBURN: No impediments in terms of
27 administering the discipline that's necessary? There are no
28 impediments that stand in the way?

1 MR. SISTO: No.

2 SENATOR ASHBURN: Okay, thank you.

3 SENATOR PADILLA: Of the ones that you have
4 caught and have been fired, what job classifications have they
5 been?

6 MR. SISTO: So far they've all been nonpeace
7 officers -- I'm sorry. One peace officer, three nonpeace
8 officers.

9 SENATOR PADILLA: The three nonpeace officers,
10 anything more specific?

11 MR. SISTO: Cooks, nurses, one correctional
12 officer.

13 And we have -- I can't tell you the
14 classification -- but several others under investigation right
15 now.

16 SENATOR PADILLA: Because we're on the topic, I
17 wanted to ask that follow-up question because, depending on what
18 kind of job you have, and your ability to find another job
19 quickly or not, that's a measurement of whether firing alone is
20 a sufficient deterrent.

21 MR. SISTO: If I could share with you the comment
22 of one individual when he was caught.

23 He told our Office of Internal Affairs that he
24 knew he was going to get caught. He knew it was just a matter
25 of time. But the money that he made doing it far exceeded what
26 he could do, or what he would get paid on the job.

27 And he also knew that he didn't have to work in
28 the state to do that job. He could go to any other place for

1 that job.

2 CHAIRMAN PERATA: Thank you. Good point.

3 Anyone further? And there are lots of wardens
4 here, so that's why there's no opposition.

5 [Laughter.]

6 CHAIRMAN PERATA: You all are available on
7 Wednesdays generally, I gather. I invite you to come back.

8 [Laughter.]

9 CHAIRMAN PERATA: I just want to say in sum that
10 in looking at your work history, and Mr. Giurbino's as well, you
11 guys both came up through the ranks.

12 MR. KANE: Yes, sir.

13 CHAIRMAN PERATA: And you both have a certain
14 bearing of leadership and presence.

15 Those of us in elected office always like to
16 believe that what we traffic in most often is leadership.

17 Don't comment. We have to have some allusions.

18 [Laughter.]

19 CHAIRMAN PERATA: But I'm a great believer that
20 if this system is going to ever get turned around, it's going to
21 get turned around because of gentlemen like you two, who can
22 lead, who have the respect of the people that lead, who also
23 understand that this is really an effort where everybody has to
24 be engaged, not only the inmates but the guards.

25 And we are all troubled by the out-of-contract
26 condition right now that the labor force is in. And that's
27 above your pay grade and without our jurisdiction.

28 But I do want to emphasize something that's been

1 obvious to me from the time what we've been talking with and
2 confirming individuals in Corrections.

3 I do not believe, and it seems that your career
4 reflects this, I do not believe you can manage a facility or
5 manage a system unless you have the peace officers actively
6 engaged in that.

7 And I would hope that your example and your
8 philosophy that you apply is spreading quickly throughout the
9 organization, because I will tell you that both of you are a
10 great cut above some of the people that we've talked to. You're
11 the first real sign of encouragement that I have in looking at
12 the Department of Corrections.

13 MR. KANE: Thank you.

14 CHAIRMAN PERATA: I congratulate and thank both
15 of you for being here.

16 We have a motion to approve Mr. Kane. Call the
17 roll.

18 SECRETARY WEBB: Cedillo.

19 SENATOR CEDILLO: Aye.

20 SECRETARY WEBB: Cedillo Aye. Dutton.

21 SENATOR DUTTON: Aye.

22 SECRETARY WEBB: Dutton Aye. Padilla.

23 SENATOR PADILLA: Aye.

24 SECRETARY WEBB: Padilla Aye. Ashburn.

25 SENATOR ASHBURN: Aye.

26 SECRETARY WEBB: Ashburn Aye. Perata.

27 CHAIRMAN PERATA: Aye.

28 SECRETARY WEBB: Perata Aye. Five to zero.

1 CHAIRMAN PERATA: Five-zip, congratulations.

2 MR. KANE: Thank you.

3
4 [Thereupon this portion of the
5 Senate Rules Committee hearing
6 was terminated at approximately
7 4:15 P.M.]

8 --ooOoo--
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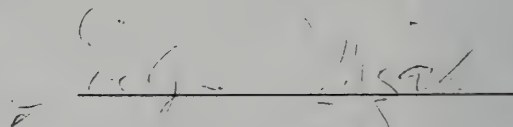
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, 2007.


EVELYN J. MIZAK
Shorthand Reporter

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APPENDIX

Robert L. Garcia
Chief Deputy Director
California Department of Social Services

Confirmation Hearing Date: May 9, 2007

QUESTIONS and RESPONSES

Goals

1. *Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as Chief Deputy Director of the Department of Social Services? How will you measure your success in meeting these goals?*

As Chief Deputy Director of the California Department of Social Services (CDSS), I plan to manage and make decisions consistent with the Department's Mission - to serve, aid, and protect needy and vulnerable children and adults in ways that strengthen and preserve families, encourage personal responsibility, and foster independence. I intend to focus significant effort on making the CDSS a desirable place to work in order to attract and retain well-qualified staff and on putting in place a management and staff development system to meet the Department's ongoing leadership, knowledge and skill needs. Following are my key goals:

- a) The safety of children and vulnerable adults should always be our highest priority. We provide oversight for many programs that are county-operated. The counties are a key partner with whom we must work closely and collaboratively to ensure that children, families and vulnerable adults receive the services and assistance they need to live safely.

As Chief Deputy Director, I will be working with the newly created Child Welfare Council (created pursuant to AB 2216 (Bass), Chapter 384, Statutes of 2006) to provide the leadership to ensure that our efforts are focused on the most important issues facing children and families in the child welfare system. In addition, the state budget of last year added significant new resources to provide services to children and families and there have been significant improvements in desired outcomes.

The safety of children who must be removed from their homes is important to me. We have increased placements in the Kinship-Guardianship Assistance Payment (KinGAP) Program and will continue to make gains in KinGAP and other relative placements. Children who remain connected to their families and other important people in their lives fare better, and the more we can increase "permanency" for children, the better chances they will have to grow up safely and securely. I am continuing to place a high priority on designing and delivering child welfare services that focus on outcomes in the priority areas of permanency, safety and well-being of children.

I place a high priority on developing efficiencies that will allow Department staff to do their jobs and fulfill the public charge we have for ensuring the safety of the many users of the community care facilities, child care facilities, and foster homes we license. One mechanism for accomplishing this efficiency is enhancing automation and technology. That is why the Department has developed an automation strategic plan for the Community Care Licensing Division that will provide staff with the tools they need to carry out their facility review responsibilities and provide Licensing Managers with the information they need to manage the Division's workload efficiently. Enhanced automation and technology will serve the dual purpose of making more licensing information available to parents and other interested members of the public about the inspection history of facilities and their licensure status with the CDSS. This also supports my goal for "transparency" as outlined in (c) below.

- b) Our programs should encourage personal responsibility and help prepare people for self-sufficiency. Providing the assistance that families and vulnerable adults need to become self-sufficient provides the best opportunity for escaping poverty and living independently.

The CalWORKs program which focuses on helping families to become self-sufficient has been a resounding success. The numbers of recipients who work increased from 19 percent in 1996 to 46 percent in 2003. Increased work has provided additional resources for these families and increased their chances of becoming self-sufficient. Federal changes in the Deficit Reduction Act (DRA) pose new challenges for California. While we have achieved significant results in the past decade in moving CalWORKs recipients from welfare to work, the DRA changed the calculation on how we must demonstrate our success. If we do not respond by further increasing the numbers of recipients who work the federally required number of hours in federally-approved activities, California faces major financial sanctions. We will work with the Legislature, our county partners, and stakeholders to find the best options for continuing to help families to become self-sufficient and avoid federal financial sanctions in the coming years. My response to Question 7 includes some specific activities we have underway to analyze our options for increasing our work participation rate and mitigating federal sanctions. Research will be key to understanding the challenges and behaviors of our CalWORKs population, and in developing strategies to encourage recipients who need them to participate in the supportive services available within the CalWORKs program.

- c) Department operations and policy development processes should be transparent. Policy development should occur in the open as much as possible and all interested stakeholders should have an opportunity to participate and make their views known before decisions are made.

We have established good working relationships with the counties and with stakeholder organizations. Through these relationships we have sought input and participation in important policy changes. We have often created workgroups composed of counties and interested stakeholders to consider the implications of policy changes. While we are not always able to reach consensus with all stakeholder groups, we have always used their input to improve our policy decisions.

I firmly believe that we must listen to all interested parties and consider their advice before we make important policy decisions, and that we must be willing and able to explain how we arrived at our decisions. As Chief Deputy Director I will foster the relationships we have with stakeholders and do my best to ensure that we operate consistent with the principles of open government which are strongly supported by the Governor.

- d) The CDSS should be an employer of choice attracting and retaining well qualified leaders and staff. In order to carry out our mission we must attract qualified staff and create a work environment in which managers earn the respect of staff and treat staff with respect.

As you will note from my response to Question 3, CDSS like most other state agencies is facing a growing wave of retirements. We have an overriding need to develop mid-level managers to replace the many executives who will be retiring in the next two to five years. We also have a need to hire highly qualified new staff that can develop into future leaders in the organization. I will be working with the Director, the Executive Team and all the managers and supervisors in the Department to create a self-sustaining organization so that in the future we will have many well-qualified staff ready to step into the shoes of those who retire or leave the Department for other reasons. In my response to Question 4 I discuss many of the actions we are taking to achieve this goal.

These four goals are my leadership priorities for making operational decisions for the CDSS and participate with the Director and the Executive Team in the policy making process. They are key to keeping with the mission of the Department. Clearly, they involve working with county partners and stakeholders to be successful in serving the millions of children, families and vulnerable adults who are our clients. Also, in the coming months with the advice and guidance of highly accomplished private sector leaders as discussed in the response to Question 4, I will set forth CDSS' direction for monitoring our performance on program goals and priorities.

2. *Given that the counties directly provide human services programs to clients at the local level, what would you say are the primary responsibilities of the department in the administration of these programs?*

The primary responsibilities of the CDSS are to set the standards for the county operated programs, and advocate within the Administration to provide the resources

the counties need to implement the standards, monitor program outcomes, and work with the counties to implement corrections and improvements when desired outcomes are not met. We also have a responsibility to help to identify best practices and to share those best practices among the counties. The CDSS and the counties have common goals and common interests, and we are partners in achieving program objectives. Counties have the frontline staff delivering services, and they have a unique perspective in understanding the implications of policy changes. For this reason, for example, when we draft instructions for counties, we share those "All County Letters" with the County Welfare Directors Association prior to releasing the final letter to counties. This practice maximizes our chances of accomplishing our leadership objectives and of achieving our desired results. We can achieve the best results when we can work cooperatively with the counties to set goals for improving programs and outcomes, design change, and develop effective policies and procedures.

Planning for Staff Retirement

3. *What percentage of the Department's managers do you anticipate will retire in the next two years? In the next five years?*

General Retirement Data:

- CDSS workforce is "older" than the rest of the state. While 35 percent of state employees are over 50 statewide, 47 percent are over 50 at CDSS).
- In the 24-month period ending March 23, 2007, the average age of retirement at CDSS was 59 years old. The most frequent age at retirement was 55.
- In the last 24 months, 9 percent of the Department's retirements were individuals younger than 55 years old (29 people ages 50-54 years).
- 13 percent of the CDSS workforce is 55 or older with 20 or more years of service (502 employees).
- Our "older demographics" and industry best practice prompted us to begin workforce planning efforts in 1998 specifically focusing on leadership development activities.

(Source: 2006 State Personnel Board (SPB) data)

Managers and Supervisors:

- 67 percent of the Department's 609 managers and supervisors are 50 years of age or older.
- Of these, 27 percent are 55 or older with at least five years of state service. This would be the group most likely to retire in the next two years.
- 36 percent are between 50 and 54 with five or more years of state service. This would be the group most likely to retire in the next five years.

4. *What actions have you taken to prepare for this potential staff turnover to minimize the impact on program operations? Specifically, how do you propose to attract and train replacement staff and also retain existing staff, where appropriate?*

Leadership Development:

- The California Performance Review (CPR) recognized CDSS for its leadership development program, Professional Management Development (PMD) Program, as “a best practice within state government that could be developed statewide.”
- I am looking forward to again partnering with UC Davis, Center for Human Services, to build on previous leadership development achievements which yielded positive results, as follows:
 - Mid-Level Management Academy – There were 50 graduates in the first two classes; 18 percent (9) have promoted within the CDSS since attending. Three are now Deputy Directors.
 - We are bringing the program up again in June 2007.
 - We are seeking resources in this year’s state budget to add an additional class of 25 participants annually, given this important effort.
 - We offer Leadership Forums for our top 100 ranking managers with an emphasis on leadership learning and development. 25 supervisors and mid-managers attend on a rotating basis to further succession efforts and spread learning opportunities.
 - We have created and made available on-line resource reference guide: FAST (Fast Access to Supervisory Tools), with issue areas such as EEO, Workers Compensation, hiring, etc.
 - We also offer a new On-Line Supervisor Development Program for Self Assessment and Preparation for entry level supervisory positions.

Department Workforce Planning:

- **WORKFORCE MANAGEMENT TEAM:** I am the executive sponsor for a workforce management team, which we put in place due to the significant change in management skills required and Department-wide impact of workforce management. CDSS has vested responsibility for these efforts in a high level, highly skilled team of management: Human Resources Services Branch Chief (CEA II) and a SSM I (who has both educational and professional workforce management expertise) dedicated to leadership development and workforce management initiatives.
- **RETENTION:** In June 2006, we began Department-wide retention planning in our Leadership Forum. Preliminary plans were submitted by all divisions in January 2007. Each Division has identified strategies specific to the needs and culture of their organization. Where appropriate, Department-wide efforts such as employee satisfaction surveys, mission based communications, recognition programs etc. are being implemented. The Leadership Forum is being used as a communication and learning vehicle to support this effort. Deputies are meeting regularly to problem solve, share best practices, and support the change in the CDSS.

- **EMPLOYER OF CHOICE:** Through the Leadership Forum, CDSS has attracted top professional leaders to assist us in improving our management practices and employee retention efforts. Roger Valine, former CEO of Vision Service Plan (VSP) (rated on the Fortune 500 as one of the best places to work the last 10 years), is conducting a pro bono organizational review and coaching the leadership team to make sweeping changes to improve leadership communication, development and retention. Betsy Sanders, former Vice President of Nordstrom and now international executive coach, has joined this effort and is focusing on executive coaching. Soon to join is Len McCandliss, CEO of Sierra Health Foundation to assist us in building our community coalition skills. These efforts are designed to set us apart from other employers and further attract people to come and work in a place noted as "an employer of choice." CDSS plans to compete in the Sacramento Workplace Excellence Awards to validate the changes and improvements we are making.

- **BRANDING:** In the summer of 2007, the CDSS will have customized recruitment flyers for job announcements and recruitment brochures that highlight the unique attributes of employment at CDSS. They will support our on-line employment resources, future live recruitment, and job interviews. The goal is to position us to attract individuals interested in our mission, unique work, and people-friendly environment.

- **RECOGNITION:** CDSS will be revising its Department-wide employee recognition program in September 2007 in relation to benchmarked best practices. We have consulted with VSP and done research to revise our program. The new program will include a focus on Customer Service (a key part of our mission and one of our values) as well as the Department of Personnel Administration (DPA) Merit Award (cash award) program. In addition, resources to assist managers and supervisors with the most important aspect of recognition -- ongoing informal recognition by direct supervisors -- will be available via web.

- **HIRING - STATE PERSONNEL BOARD PILOT REQUEST:** With the assistance of Roger Valine, CDSS is working directly with the State Personnel Board's (SPB) Anne Sheehan to initiate a pilot for open hiring of recent college graduates into entry level Staff Services Analysts positions. In addition, at a hearing of the SPB, I testified in support of creation of a new entry level analyst class exclusively for college graduates being considered by the SPB. The SPB is also considering a new selection process that will be more responsive to the needs of state agencies by providing for expedited hiring of people into this new class. Additionally, we have requested that the SPB make two policy changes to increase hiring flexibility (list transfer eligibility and use of other department's hiring lists). This work will be a benchmark for all state agencies in gaining a more facile and competitive hiring process.

- **RETIRED ANNUITANT PROGRAM:** A database of recently retired CDSS staff has been established which includes information regarding prior experience. This information is available to hiring managers to assist them in keeping programs running and finding specialized skills or institutional knowledge for limited term projects.

- **EXAMS:** We are working with SPB to automate some of our entry level specialty classifications such as Licensing Program Analyst, Adoptions Worker, Administrative Law Judge, and Medical Consultant. This will allow us to link focused recruitment efforts to the selection and hiring process providing a better quality of candidates on an expedited basis.

- **STAFF DEVELOPMENT:**

- CDSS is seeking funds in the SFY 2007-08 Budget to partner with colleges and universities, and to develop a "boot camp" for induction training of 200 analysts annually in fundamental core skills to successful work throughout the Department.
- We are continuing live workshops in fundamental skills, such as time management, communication skills, and process mapping. In 2006, we delivered 65 sessions to approximately 1,100 participants.
- We support Upward Mobility programs with twice annual live sessions and an annual Administrative Professionals session to build fundamental skills and encourage self development for future roles in the Department.
- We are piloting a revised New Employee Orientation Program in summer 2007 to supplement existing on-line new employee welcome and resources.

- **AGENCY GROUP:** To support overall workforce development within the Department and our Agency, CDSS' Training and Development Managers initiated and organized the Health and Human Services Agency Trainers Group.

- The group is comprised of the training managers from our sister Departments.
- Their purpose is to share information, best practices, and resources; collaborate on program delivery; and leverage buying power through joint purchases.
- In 2006, partnering with CSUS, they delivered a customized Agency-wide Supervisor Training Academy pilot (three classes, 90 total new supervisors from across the Agency) to fulfill the 80 hour mandated training requirement.

5. *From a departmental perspective, what do you believe are the biggest barriers the State faces in recruiting and hiring new staff?*

- Compensation for state civil service classifications is below the industry market. We have a difficult time competing in the market, especially for social workers.
- Another barrier is the antiquated selection and hiring process. Administration of examinations is a time-consuming and lengthy process that produces lists of prospective hires that often leave the best candidates not reachable. The

selection process is especially problematic for hiring of new entry level college graduates. Extensive changes in policies and practices and increased automation are needed to meet the current hiring needs of state agencies.

CalWORKs Program

6. *Has the Governor received a response from the federal government regarding his request for additional state flexibility in the operation of the state's TANF program? If so, how did the federal government respond? If no, has the Governor continued to pursue his request?*

The Administration has taken every opportunity to express our concerns to the US Department of Health and Human Services (DHHS), as well as others who may have influence, including personal meetings with congressional staffers in Washington, D.C. regarding Temporary Assistance for Needy Families (TANF) Reauthorization.

Since the passage of the Deficit Reduction Act (DRA), the Administration submitted letters to Secretary Leavitt and Assistant Secretary Horn via the CDSS to urge DHHS to consider our concerns and make appropriate changes. CDSS also worked with the National Governor's Association and the American Public Human Services Association and several other states to collaborate on a letter submitted to Secretary Leavitt on March 23, 2006 that identified areas in which states needed more flexibility.

The federal response to concerns has been expressed verbally via conference calls. However, a written response did come in the form of "further guidance" to the state's Work Verification Plan, which was issued to all states in December 2006 and which identified common issues and concerns with states' Work Verification Plans. States were given until February 28, 2007 to resubmit their plans. California met this deadline.

Additionally, in February 2007, the CDSS Interim Director, Cliff Allenby, received a response letter from Sidonie Squier of the Administration for Children and Families regarding California's request for increased flexibility in administering the TANF program in the realm of the Interim Final Rule and the state's Work Verification Plan. The response letter acknowledged our concerns and committed the federal government to providing specific, individual feedback by April 30, 2007 regarding the state's request for increased flexibility.

California will continue to utilize the TANF Stakeholders Work Group, as well as work with our partners in Washington D.C., to try to resolve issues with TANF Reauthorization and the DRA. This may include pursuing other congressional avenues to obtain statutory changes that will allow California and other states to successfully implement the DRA.

7. *One of the problems identified in discussions about the operation of CalWORKs is the lack of statewide data both in terms of what activities counties are pursuing and outcomes for recipients. Please describe the Department's current research capability and how you might enhance that capability so policymakers could base decisions on data and information.*

Accurate and complete data are essential to the operation, oversight and improvement of any program. The state and counties collect extensive data on the CalWORKs program. However, as is consistent with the CalWORKs model, California's statewide automated system is intentionally designed to allow for county flexibility. The statewide automated system is in fact made up of four consortia systems which allow counties to collect data in a way most suited to their particular region, client mix, and program design. They utilize these systems to provide the state with aggregated data regarding the CalWORKs program.

Additionally, CDSS maintains the AFDC/TANF/CalWORKs Longitudinal Database (LDB) with the universe of all recipients' cash aid histories. Other current data collection and research projects include: the Welfare Data Tracking Implementation Project (WDTIP), which tracks recipients time on aid; the WTW 30 County Work Participation Rate Project (E2Lite), which tracks county specific data for federal work participation rate reporting purposes and Pay for Performance measures; and the Research and Development Enterprise Project (RADEP), which will be implemented later this year to replace the Q5 system currently used to capture TANF and Food Stamp data for federal reporting and federal quality control efforts.

Further, the state will routinely publish data as it regards county progress on Pay for Performance incentive program measures, caseload participation status for both state and federal purposes, a breakdown of the TANF federal participation caseload, county work participation rates as calculated monthly, California's federal work participation rate, and extensive data regarding the demographics of the CalWORKs population.

One process the state has undertaken to ensure appropriate data is available to administer the CalWORKs program effectively is the development of a CalWORKs Data Master Plan. Mandated by Assembly Bill 1808 (Chapter 75, Statutes of 2006), the CalWORKs Data Master Plan requires publication of data, a further assessment of data needs to support CalWORKs' goals, the development of an engagement report for county management purposes, and the development of longitudinal data to assist in policy development decisions.

CDSS continues collaboration with appropriate stakeholders in a Data Master Plan workgroup to design draft longitudinal reports, identify the data elements necessary to produce these reports, and examine the feasibility of developing a system for acquiring, storing and reporting the data from the four consortia systems. CDSS needs the authority to access county data either directly or through a centralized data collection and tracking system in order to obtain a true picture of what is happening to clients over time.

The CalWORKs Data Master Plan statutory requirement included the development and implementation of a new participation/client engagement report. In consultation with Exemplar Human Services LLC., a nationally-recognized human service agencies consultant providing performance outcome management services, the state has completed initial design of a federal engagement report. This engagement report displays point-in-time data that will enable counties to clearly comprehend how much of their caseload is participating sufficient hours in qualified, federally-countable activities, which would be counted toward the numerator in the work participation rate calculation; how much of their caseload is participating in federally-approved activities, but with insufficient hours; and how much of their caseload is participating in activities that are not federally countable.

The engagement report also identifies how many recipients are unengaged, and whether non-participation may be attributed to being new to aid, exempt from participation, or in sanction status. Ultimately, this engagement report will serve as a valuable management tool for counties to track their caseloads and identify sub-populations of cases requiring attention. Utilizing this data tool will help counties focus on engaging their caseloads and locating participation problems.

In addition, CDSS, as a member of the Board of Directors for the Welfare Policy Research Project (WPRP), is working collaboratively with other WPRP legislative and county board members to further pursue formal research that will expand our knowledge of the CalWORKs population we serve. This Board convened on April 11, 2007 to finalize the top research topic area to be pursued by WPRP. The WPRP also functions as a data repository, maintaining research data relevant to the CalWORKs program, which the department will continue to utilize as a resource as needed.

The state has also partnered with other organizations, such as the University of California, Berkeley, to perform research that will support overall CalWORKs program administration. These organizations perform in-depth studies of research material, periodicals, journals, et al, to identify welfare related issues, and the Department of Health Services which maintains a Women's Health Survey that helps to inform CalWORKs administrators of the many women's issues, such as domestic violence, that impact the CalWORKs caseload.

CDSS remains committed to continuing to develop and refine data collection and research tools and techniques to measure CalWORKs program effectiveness and progress.

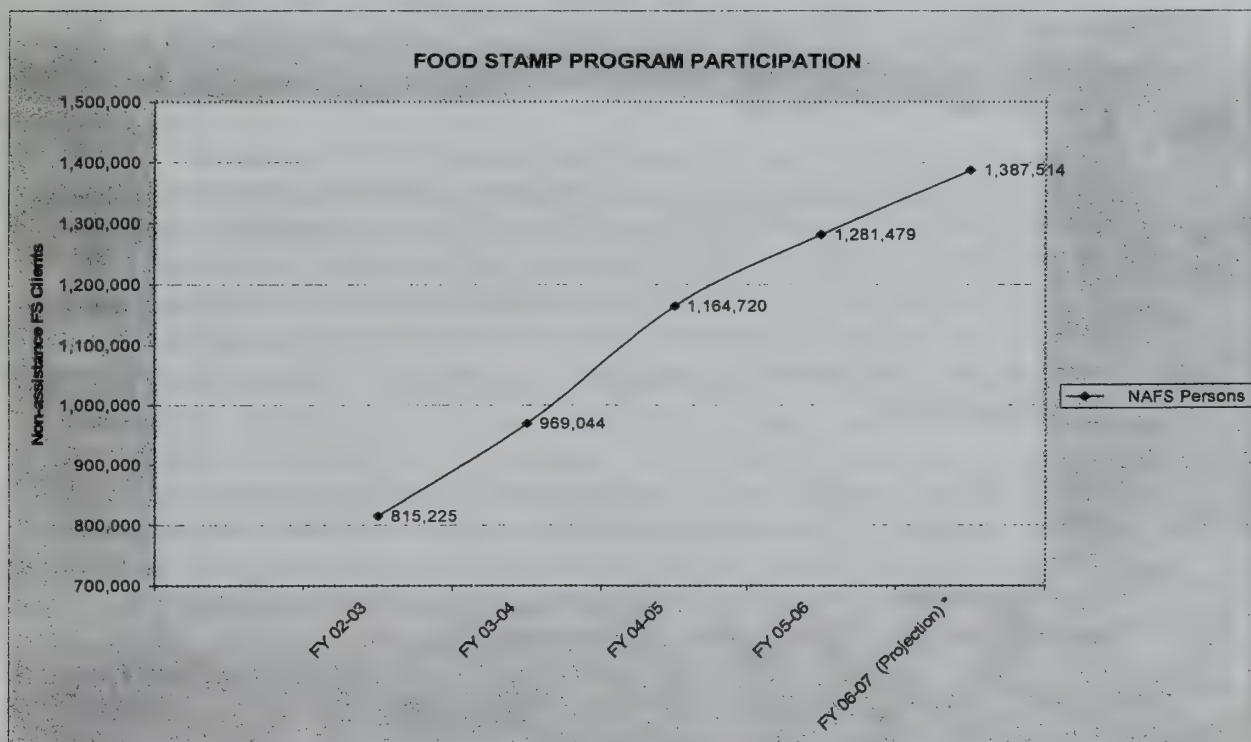
Food Stamp Program

8. *Why is California's food stamp participation rate so low? What specific steps do you think California could take to increase its participation? Is there anything that prevents the state from pursuing changes to increase participation?*

There are a number of barriers that have been documented as factors in why potentially eligible households do not participate in the Food Stamp Program (FSP). These barriers include a lack of knowledge regarding eligibility, frustration with an application process that is considered burdensome, a perceived stigma associated with the program, and the concern in the immigrant communities regarding becoming a "public charge." The issue regarding immigrant communities is of particular importance in California given our large immigrant population.

Over the past several years, CDSS has undertaken a number of activities to increase FSP participation. Efforts include outreach at local food banks in 22 counties, implementing federal options that will expand eligibility to exiting families, pursuing simplification options that will lessen recipient efforts to renew their Food Stamp benefits on an annual basis and options that make the program more compatible with the CalWORKs Program, and partnering with H & R Block to outreach to families eligible for the Earned Income Tax Credit, etc. (See list of outreach activities below.) These efforts have paid off and participation has risen significantly in recent years:

- Since 2004 there has been a 30.2 percent increase in the number of people receiving non-assistance Food Stamp benefits (from 969,000 in SFY 2003-04 to 1.3 million in SFY 2005-06). See caseload trend chart below.
- For SFY 2006-07, the projected number of Food Stamp non-assistance persons is 1.4 million.
- Between SFY 2003-04 and SFY 2005-06, the number of combined Food Stamp public assistance and non-assistance persons has grown from 1.8 million to 2.0 million. This is a 10.2 percent increase.



However, California continues to maintain that U.S. Department of Agriculture-Food and Nutrition Services (USDA-FNS) underestimates California's Food Stamp participation rate:

- The methodology used by USDA-FNS does not accurately take into account California's Supplementary Security Income (SSI) recipients who receive a food stamp cash-out payment. The federal methodology removes them from the calculation, which does not give California credit for providing the equivalent of food stamp benefits to a sizable population. Approximately 1.2 million potentially eligible Food Stamp recipients receive cash payments in the SSI/SSP program in place of Food Stamp benefits.
- According to the University of California (UC) Data Archive and Technical Assistance (DATA), if 80 percent (those eligible for Food Stamp benefits) of the SSI/SSP population were counted in both the numerator and the denominator, then California's Food Stamp participation rate would increase by 7 to 10.5 percent, making the rate rise to between 53 and 56 percent respectively. This would place California between 38th and 44th in the national rankings and would make California's rate very comparable to those of other similarly situated large states:
 - Texas ranks 33 in the national rankings with 58 percent participation.
 - Florida ranks 39 in the national rankings with 55 percent participation.
 - New York ranks 46 in the national rankings with 53 percent participation.

What specific steps do you think California could take to increase its participation?

Efforts to increase Food Stamp participation are being undertaken in the following ways, with particular emphasis on the cultural and linguistic needs of the populations most eligible for Food Stamps:

- Semi-Annual Reporting (SAR): SAR will simplify and increase efficiency for recipients reporting in CalWORKs and the FSP, while maintaining program integrity and reducing the FSP error rate. SAR replaces the current quarterly reporting system with a semi-annual reporting system that includes a change reporting component. This new system will significantly reduce the frequency of reporting and the burden of paperwork on working families and county welfare department staff.
- Additional local assistance funding for counties for the purpose of improving program access: This funding would allow counties to develop and implement strategies for providing a range of services, including working with various local organizations and groups to reach individuals at a time and place that generally does not add any other burden on the potential client.

- Expand the Food Stamp Outreach Project: Currently the project, conducted through the California Association of Food Banks (CAFB), is limited and does not reach all 58 counties. The Outreach Project has developed effective strategies to increase participation in the FSP, and additional funding to boost outreach services would expand these best practices.
- Expand Food Stamp Hotline statewide and develop a California-specific media campaign: Funding for the permanent establishment and statewide rollout of a FSP toll-free information hotline in conjunction with the development of state-specific media materials would allow for equal access and county-specific information regarding the FSP. The Food Stamp Hotline along with a media campaign would be a very powerful and effective outreach tool. The Hotline number could also be used to promote other programs that assist other low-income individuals, such as the earned income tax credit (EITC).
- Implement a statewide web-based electronic application: A web-based application would allow potentially eligible clients to apply online with or without the assistance of an outreach worker. This application method could substantially increase program access to working low-income individuals by allowing them to apply anywhere at any time.
- Extend categorical eligibility: Extending categorical eligibility to Medi-Cal recipients could increase the participation in the FSP by as much as 662,000 new cases in the first full year of implementation. However, the recently released proposal from USDA for the reauthorization of the FSP as part of the 2007 Farm Bill would restrict FSP categorical eligibility to those that receive cash assistance. If that provision is enacted into federal law, extending categorical eligibility to non-cash aid Medi-Cal recipients would not be an option.

Current FSP Outreach Activities:

- Starting in January 2004, implemented transitional Food Stamp benefits for people leaving CalWORKs and increased the number of people eligible by allowing car ownership to facilitate working in the community. Also, counties are now required to screen applicants to determine if individuals should be exempted from the face-to-face interview as part of the Food Stamp application process.
- The Food Stamp Outreach Project, implemented in 2004, is in its third year and consists of over 40 agencies (county level food banks and community-based organizations (CBOs)) in 22 counties. The project is administered through a contract with the California Department of Health Services, Nutrition Network (Network) and CAFB. County level food banks and CBOs work directly with potentially eligible clients and community organizations that serve low-income people to educate and prescreen them for FSP benefits.

- As a result of USDA media campaigns that occur each year, CDSS worked with the CAFB and the Network to implement the Food Stamp Hotline pilot project. The pilot project consists of a toll-free number which offers the caller an option to receive automated information about the FSP or to connect to a call center in their region.
- Two California counties received USDA Participation Grants for 2006/07 to develop an on-line application process that will allow the client to apply on-line with no need for county workers to re-enter data as part of the application process, thereby streamlining the application process and increasing program access.
- CDSS has been working with H&R Block for two years on their FSP outreach project. Potentially eligible clients are provided the FSP application and general program information directly from the local H&R Block offices at no charge. H&R Block will also continue the enhanced project that was implemented last year in San Francisco and Alameda counties that will provide expanded FSP outreach services.
- The Department continues to work with other state agencies such as Department of Health Services' Women, Infants and Children (WIC) Branch and the Nutrition Network and participates in both the annual WIC and the bi-annual Childhood Obesity Conference.

Simplification and Policy Changes:

- Options implemented November 1, 2006 include the alignment of the resource and income exclusions with the CalWORKs program; the treatment of child support payments as an income exclusion instead of a deduction; and the requirement for use of the Standard Utility Allowance.
- Simplifying the recertification process for quarterly reporting households.
- Eliminating the mandatory face-to-face interview requirement for families at recertification, and for elderly and disabled individuals at both intake and recertification.
- Four counties-- San Francisco, Los Angeles, Sacramento and Tuolumne--have implemented the optional Food Stamp Restaurant Meals Program for homeless, elderly, and disabled Food Stamp recipients. This program allows for the use of the Electronic Benefits Transfer (EBT) card to purchase a "hot meal." This program increases access for individuals who otherwise may have difficulty using their Food Stamp benefits.

Is there anything that prevents the state from pursuing changes to increase participation?

Administrative costs associated with outreach efforts and with increasing caseloads have been a major barrier to increasing participation. Currently, it is estimated that over two million low-income Californians who are potentially eligible are not accessing the FSP. These households are potentially eligible to receive approximately \$2.2 billion annually in Food Stamp benefits. However, expanded FSP participation would result in an increase in program administrative costs and put pressure on the State General Fund. Without additional funding for policy changes and activities that would increase participation, it is difficult to have a sustainable state outreach effort. At present, there is no state funding specifically allocated for outreach. The federal government will match dollar for dollar state spending for allowable activities.

Although program administrative costs would increase with a rise in participation, greater participation would also result in increased federal dollars being spent in the local economy, thereby creating a positive economic impact in terms of increase retail sales, creating new jobs, etc. Based on an analysis completed by the Legislative Analyst's Office (LAO), for every new dollar in FSP benefits, approximately two cents of General Fund tax revenue is generated. However, the increased state revenue is not sufficient to offset the state costs to administer the outreach efforts.

Community Care Licensing Inspections

The Community Care Licensing Division (CCLD) has the challenging job of licensing and providing oversight of more than 80,000 community care facilities that provide housing to 1.5 million people. Health and safety is one of Governor Schwarzenegger's highest priorities, as evidenced by the considerable resources dedicated to the CCLD over the past two years. The Administration has been actively engaged in rebuilding and making continuous improvements to this important program. We have invested substantial resources and management time and are seeing positive results.

- The CCLD is responding to complaints within the required ten-day response period 98 percent of the time. This is the program's number one priority, as responding to complaints from residents, family members, employees, and neighbors continues to result in addressing the most serious violations.
- In 2004-2005, approximately 74,000 visits were made to CCLD-licensed facilities. In 2005-2006, approximately 91,000 visits were made, and in the current year, we project that a total of 95,000 visits will be made to child care, children's residential, senior care, and adult residential facilities. We project that we will complete 90 percent of our mandated visits this year.

- Since January 2005 when the hiring freeze was lifted, more than 180 employees have been hired and the CCLD vacancy rate is currently 8.2 percent. In the previous two years, the vacancy rate ranged from 10 to 14 percent.
 - Renewed attention is being given to our information technology and automation needs, and an Information Technology Strategic Plan was developed in 2006. The Governor proposes to fund the first phase of this comprehensive plan in his SFY 2007-2008 budget.
9. *What is the status of the implementation of the 2006 Budget Act provisions for community care licensing? Have the number of community care facilities receiving inspections each year, based on a random selection of facilities, increased to the number required by statute? If not, what is the timeframe for meeting these requirements?*

The CDSS estimates it will make a total of 95,000 visits this year - an increase of 4,000 visits from the previous year. Ninety percent of the annually mandated visits are expected to be made. Additionally, following up on complaints continues to be our highest priority, and we will be in compliance with the mandated ten-day visit response period 98 percent of the time. We are proud of our rates of compliance and will continue to strive to meet this workload in a manner that ensures the safety of children and vulnerable adults.

10. *What steps is the Department taking to recruit and train new staff to conduct licensing and certification activities in order to keep up with the increased workload?*

Recruitment

For the past two years, the CDSS has been taking aggressive steps to rebuild the licensing program and increase our monitoring presence in the field. The Governor and Legislature have authorized 101 positions to the CCLD during this time. To this end, we have launched a major recruitment effort to attract and hire new licensing personnel, both from within state service and from the general public. This began in the spring of 2005 with the development and delivery of a Licensing Program Analyst (LPA) examination, something that had not occurred in over a decade. Prior to this examination, vacancies for the LPA classification were filled using a general Staff Services Analyst classification which did not generate individuals with the specialized expertise/skills necessary to perform the duties of the LPA. More recently, with the intention of further improving the LPA candidate pool, the Department has conducted a new and improved LPA examination. Focused recruiting at colleges and other community organizations occurred resulting in over 800 individuals taking the examination in March 2007. The eligibility list is expected to be released in May 2007.

The Department has also emphasized recruitment in the Licensing Program Manager (LPM) series. LPM I and LPM II examinations were conducted in December 2006. These current LPM lists are providing the Department with the ability to fill LPM vacancies and also promotional opportunities, furthering the Department's goals toward staff retention.

Training

An additional component in the CCLD rebuilding effort is the focus on staff training. To address its many training needs, the Division is utilizing multiple sources. Training programs are primarily developed and delivered by the Division's own trainers or through contracts with outside entities. Additional staff training is provided by the Licensing Program Managers, Regional Technology Specialists, Policy staff, Legal Division staff, the Training and Development Office, and others.

Of particular note is the LPA Academy, which the CCLD instituted in late 2005 for all new LPAs. It is projected that 155 analysts will have been through our academy by the end of this fiscal year. This academy provides comprehensive instruction on all the aspects of the LPA job duties. The training modules presented at the academies require three weeks of classroom instruction and two weeks of on-the-job training. The use of new tablet laptop computers by LPAs in the field has also been integrated into the training provided at the academy. In addition, the instruction is tailored to groups of analysts assigned to specific community care populations so that the unique needs, facility types, and emerging issues can be incorporated into the instruction received.

We have extended the LPA training academy to our county partners as well. CCLD liaisons to the counties also provide individualized training to county licensing supervisors at the county's request, or when there has been a substantive policy or procedural change.

The CDSS has developed a specialized complaint training program entitled "Back to Basics" in response to the high priority the Department places on responding to complaints about conditions in community care facilities. The delivery of this training began in July 2006, and it is projected that all LPAs (577.4) will have received this training by February 2008. Plans are underway to develop "Back to Basics II" which will focus on identifying the severity of deficiencies, developing measurable and verifiable plans of corrections, and report writing.

The Department's training program for licensing staff does not end with the LPAs. In SFY 2006-2007, the Department initiated the development of an LPM training program. This training program will include both formal training and peer mentoring components and will focus on assisting LPM staff to increase their job skills. Some of the areas that will be addressed include reviewing complaint investigations, prioritizing assignments, evaluating workload performance, and utilizing electronic workload management tools.

11. What is the status of the implementation of Chapter 902? What actions are you taking to ensure the legislation is implemented in a timely manner?

SB 1759 (Ashburn), Chapter 902, Statutes of 2006 (which was Administration-sponsored legislation) includes a number of requirements for various departments within the California Health and Human Services Agency to enhance client safety in state-licensed health and care facilities. Among other things, it provides the

authority for specified departments within the Agency to share administrative action information regarding their applicants, licensees, certificates, and individuals. Chapter 902 also requires the CDSS to maintain an interdepartmental centralized data system for this information (subject to an appropriation), which is to be used as part of departmental background check processes. The CDSS has convened an interdepartmental task force to examine the feasibility of implementing a shared data system. Each department varies in the type of information they capture, where it is housed (in paper case files, on a data base, centralized versus in each office throughout the state, etc.), and the kinds of actions they take when problems are uncovered. All of these variables must be taken into account as the task force considers what recommendations are the most viable. The task force is currently assessing the issues raised during this review, and will incorporate this information into a concept paper. The concept paper will identify alternatives for sharing the information electronically between departments and provide a recommendation that the task force believes will be the most viable. Once departments have approved the concept paper, the information will then be used to prepare the necessary project approval document. In the interim, the CCLD informs partner departments when it has taken an Administrative Action against an individual known by the CDSS to be associated with another department.

Worthy of note, CCLD has already implemented a licensing Administrative Action records system that provides county licensing agents with information on Administrative Actions taken by CCLD and vice versa.

12. Please provide information on the specific actions you are taking to address the concerns raised by the State Auditor's report on child care facilities.

While the report focused on child care, our efforts have been to rebuild **all** the programs, as the report pointed out some important systemic needs throughout the entire division. In May, the CCLD will provide the final response to the Bureau of State Audits 2006 report on rebuilding program oversight and improvement in monitoring and enforcement.

- a) We believe that the need for better and more reliable data is as important in child care as it is in the other programs, as demonstrated by our automation proposal in the Governor's SFY 2007-2008 proposed budget.
 - i) The CCLD is working to clean up the data system as new applications and improvements are made. The result is better data, facilities no longer in business are purged from the system, variation is reduced, and consistency is increased.
 - ii) In one office, data clean-up resulted in over \$20,000 in past due annual licensure fees being collected.
- b) Regular and comprehensive monitoring and oversight of all licensed programs is critical to an effective system of enforcement. Our plan is to increase the number of random visits from 20 percent of facilities to 30 percent in SFY 2007-2008. As stated earlier, our total visits have steadily increased as staffing has been

augmented, vacancies filled, and training provided. Two years ago, we made 74,000 visits; we project 95,000 visits in the current year. The CCLD is placing a larger emphasis on assessing civil penalties when serious violations occur. In the last two fiscal years, civil penalty assessment has increased from \$1,126,956 (SFY 2004-2005) to \$1,826,995 (SFY 2005-2006), and \$1,093,575 in civil penalties has been assessed for the first two quarters of SFY 2006-2007.

- c) The Administration's budget proposal for SFY 2007-2008 contains a request for additional staff to make follow-up visits when someone dangerous is excluded from a facility or a program is closed. The CCLD wants to protect the health and safety of individuals by taking the extra step of returning to the facility after the action is taken to ensure that the facility is no longer operating, or that the unapproved individual is no longer on the premises.

Disaster Preparedness Planning for the Department of Social Services

13. *How recently has the Department's written mass care plan been updated? Does the Department's plan specify exactly how mass care and shelter will be provided to a local area if the Department must step in?*

The most recent update is the addition of Department Operation Center roles and procedures – added in January 2007. In October 2006, a Concept of Operations was added to define CDSS' relationship with the American Red Cross (ARC). Future planned additions include a "Persons with Disabilities/Elderly" (PWD/E) Annex to the plan.

The CDSS' plan specifies that support for local area emergency response will be provided through the Standardized Emergency Management System. It explains the Department's relationship with the Governor's Office of Emergency Services (OES), other supporting state agencies and departments, non-governmental organizations and volunteers. The Department's first priority is to support local emergency response efforts to ensure that local efforts can meet the needs in the vast majority of disaster situations.

The Concept of Operations between CDSS and the ARC provides for the ARC and local governments to operate mass shelters. In the event that CDSS' assistance is needed to establish additional shelter sites, the Department's Catastrophic Care and Shelter Annex to the Mass Care and Shelter Plan includes a directory of facilities/locations under state jurisdiction that may serve as shelters, i.e., state parks, fairs and expositions, colleges and universities, state hospitals and land parcels.

CDSS is in the process of contracting with a consultant to conduct a gap analysis to identify the equipment and other resource needs of PWD/E who require sheltering

services. This analysis will assist the state and counties to determine steps that they must take to more effectively serve these populations in the event of a disaster.

Should CDSS not obtain sufficient state resources to fully assist ARC and local governments with their mass care and shelter needs, the Department initiates requests for federal resources from the Federal Emergency Management Agency (FEMA). CDSS staff has been meeting with representatives from ARC, OES, FEMA, and other organizations to plan and exercise processes and procedures related to such requests.

14. In regard to the problem raised by the Government Accountability Office report, is the Department developing a statewide child welfare disaster preparedness plan? If so, when will this plan be completed and will it be shared with the Legislature?

Subsequent to issuance of the GAO's report in July of 2006, Congress enacted PL 109-288 in September of 2006. PL 109-288 amended the Social Security Act to reauthorize the Promoting Safe and Stable Families Program, and among other changes, established requirements for states' disaster planning in child welfare under Section 6 (a) (16), Improvements to the Child Welfare Program. These provisions require that states have in place within one year, procedures providing for response to a disaster including how a state would:

- identify, locate and continue availability of services for dependent children who are displaced or adversely affected by a disaster;
- respond to new child welfare cases in areas impacted by a disaster;
- remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;
- preserve essential program records; and
- coordinate services and share information with other states.

The CDSS requested and received copies of existing county child welfare services disaster response plans during the January through March Quarter of 2007. These plans are being reviewed in the context of the new federal guidelines.

In April 2007, the Department will issue an All County Letter (ACL) that will transmit the new federal disaster criteria and request that counties incorporate these guidelines within their local child welfare services disaster response plans. The ACL will require that county plans be amended and operational by September 30, 2007. The Department will be happy to provide the Legislature with a copy of this letter.

It should be noted that the Department and the counties will make full use of the capabilities of Child Welfare Services/Case Management System in the event of a disaster. The system will provide a critical resource for identifying and locating dependent children affected by a disaster. The system will also preserve essential records and facilitate the provision of services from unaffected locations.

Further, under the CDSS' Community Care Licensing Programs, licensed providers of placement services are required to maintain safety and disaster response protocols. CCL staff ensures that these protocols are in place when they conduct facility reviews.

We anticipate that the 2007-2008 Federal Child and Family Services Review in California will include a sample review of county child welfare disaster response plans.

15. *What steps have you taken to ensure that the role social services workers play in maintaining public safety has been considered in the vaccine priority planning under the Department of Health Services? For example, what priority have county child and adult protective services workers – who investigate and monitor cases of alleged abuse or neglect – been given?*

CDSS is an active member on the interdepartmental work group that is advising the California Department of Health Services (CDHS) on the prioritization and administration of vaccines during a pandemic. CDSS will follow and administer the vaccine and anti-viral prioritization developed by CDHS in its Pandemic Flu plans and supplemental documents. As stated in the September 8, 2006 revision of the CDHS plan, there is no comprehensive prioritization process that currently exists for defining specific groups of individuals to receive vaccine. CDHS is waiting for specific federal guidance on prioritization of the vaccine criteria. CDSS is pleased to be a part of this important effort and believes that its participation will help ensure that social service workers and the important role they play in ensuring the safety of vulnerable children and adults will be considered in the development of the state's priority ranking.

Presently, there are some general guidelines that are contained in the CDHS Vaccine Prioritization Plan Supplemental Document B – see table on next page. It should also be noted that the current CDHS Pandemic Flu plan lists social services workers as a group of employees who meet criteria for vaccinations.

In addition to work with the California Department of Health Services, the CDSS continues to be an active part of the overall Pan Flu planning process. For example, on April 20, 2007 we will be one of the state government representatives at the Pandemic Flu Summit being held in San Francisco, co-sponsored by CDHS, Bay Area Red Cross, and Stanford University, among other organizations.

Given the increasing emphasis on the planning and preparation for a pandemic outbreak as well as other emergencies or disasters, the CDSS redirected a position on April 1, 2007 to be a Pandemic Flu Continuity of Operations/Continuity of Governance Coordinator. This staff member will work with the Divisions within the CDSS to increase their planning and preparedness activities.

Table 2: Target group descriptions for professionals working in MEDICAL CARE SERVICE INDUSTRY

Target Group	Population Estimates	Target Group Description	Level of Expertise	Sample Occupations
Medical Care Practitioners	258,600	Medical care practitioners are professionals who provide direct patient care services through the diagnosis and treatment of diseases and injuries	Medical care practitioners hold professional degrees have completed advanced training and function in highly autonomous roles.	Family and general practitioners, surgeons, registered nurses, and physician assistants.
Medical Care Technicians and Aides	311,100	Medical care technicians are professionals who prepare equipment for medical procedures and administer routine tests and treatments to patients. Medical aides assess and care for patients needs by carrying out treatment plans and documenting progress.	These professionals have a range of expertise from associate degrees to on-the-job training depending on occupation	Respiratory therapists, home health aides, nursing aides, medical assistants.
Medical Scientists and Laboratory Technicians,	22,700	Medical scientists conduct research dealing with the understanding of human diseases, and laboratory technicians perform laboratory tests to diagnosis, treat, and prevent disease	These professionals have a range of expertise from bachelor's degrees to advanced degrees and function in highly autonomous roles	Pathologists, microbiologists, medical and clinical laboratory technicians, biological technicians
Mental Health and Social Service Providers	34,100	This group includes professionals who provide mental health care and social support services to patients, families, and health care workers.	These professionals hold college or advanced degrees and function in highly autonomous roles	Mental health counselors, medical and public health social workers, and social and human service assistants
Health Care System Support and General Support	430,500	Health care system support includes professionals who perform organizational, business, financial and administrative roles. General support includes professionals who provide security, food preparation and handling, cleaning and maintenance and personal care services to support the daily operations of the medical care facility	These professionals have a range of expertise from on-the-job training to advanced degrees depending on occupation	Medical and health service managers, budget analysts, computer systems analysts, medical assistants, medical secretaries, Security guards, food preparation workers, janitors and cleaners and maids and housekeeping

**Table Source is from CDHS plan:
Vaccine Prioritization Plan Supplemental Document
SUPPLEMENTAL DOCUMENT B
Target Population Group Profiles**

Disability Determination

16. *What is the current backlog of cases? Over the past two years has the number of backlogs increased or decreased?*

- In December 2004 the backlog was 15,800 cases.
- In December 2006 the backlog was 9,100 cases, a 42 percent decrease from December 2004.

The Department continues to focus on reducing the backlog.

17. *What is the primary reason for processing delays? What actions can the Department take to increase the timeliness of the processing?*

I acknowledge the importance of the disability determination function CDSS performs. It provides income and safety protection for thousands of vulnerable people in California. We attribute the original backlog to an unprecedented and unanticipated increase in Medi-Cal disability applications, combined with significant reductions in the number of highly trained and specialized disability analysts due to the budget crisis. The Department has taken a number of steps to reduce the backlog and is continuing to follow these administrative practices to further reduce both the backlog and the average time for processing cases.

Reason for delays:

There was a 33 percent increase in case receipts between SFY 2000-01 and SFY 2003-04, without commensurate increases in staffing due to the budget crisis.

Actions taken:

The Disability Determination Services Division (DDSD) has improved case processing efficiency by 21 percent since SFY 2001-02.

- SFY 2001-02: 10 Limited Term positions added.
- SFY 2003-04: 10 Limited Term positions added, while 10 Limited Term positions from SFY 2001-02 expired; another 16 positions were eliminated as a result of budget reductions – resulting in a net loss for the year of 16 positions.
- SFY 2004-05: 15 permanent positions added.
- SFY 2005-06: 20 permanent positions added.
- Overtime utilized to increase timeliness of case processing.
- BCP (currently in the budget for SFY 2007-08) for 11 Limited Term positions to assist with elimination of the backlog by June 2008.

I also want to clarify the 90-day timeline within which eligibility determinations of disability must be made (i.e., when the 90-day period starts and stops). Preceding Questions 16 and 17, the Senate Rules Committee letter states: "One responsibility of the Department is to make determinations of disability for the purpose of eligibility

for the Medi-Cal Medically Needy program. By law, the eligibility determination must be made within 90 days of when a case is received by the Department from a county."

To clarify, "eligibility determination" includes both the determination of disability by DDSD and the eligibility determination based on other factors, including income and resources, by the county. The 90 days begins to run when the county receives an application for Medi-Cal from the Medi-Cal applicant, includes both the county's actions regarding eligibility and the DDSD disability determination activities, and ends when the county finally determines whether or not a person is eligible for services. The county Medi-Cal processes are the normal county welfare department eligibility processes done for all Medi-Cal claims. The 90-day time frame for determining Medi-Cal eligibility thus includes **both** the county's time **and** the DDSD time.

Senate Confirmation
George J. Giurbino, Associate Director
High Security & Transitional Housing
Responses to Senate Rules Committee Questions
May 18, 2007

Mission, Responsibilities and Accountability

Until the department's 2005 reorganization, prisons were overseen by three regional administrators. With the reorganization, the structure changed to five mission-based associate directors who report to the Director of the Division of Adult Institutions.

The Associate Director of High Security and Transitional Housing is responsible for more than 32,000 men incarcerated in the following seven institutions: Corcoran State Prison; High Desert State Prison; Kern Valley State Prison; Pelican Bay State Prison; California State Prison, Sacramento; Salinas Valley State Prison; and California Correctional Institution in Tehachapi. This position is also responsible for a transitional housing program, in which gang members renounce their gang ties and move into special prison housing units.

Under the department's duty statement for the associate director position, the largest share of time – 40 percent – is to include visiting prisons to discuss, among other things security arrangements, housing policies, labor relations, and litigation. The associate director also collaborates with other associate directors to ensure uniformity in the way prisons are managed.

1. What do you consider your primary responsibilities within the new CDCR structure? What distinguishes the prisons under your mission and how does this affect your responsibilities?

The High Security and Transitional Housing Unit (HSTHU) Mission Based Group is comprised of seven high security prisons, which separate themselves from the other missions by including high security 180 design housing structures in addition to the standard 270 design level III/IV housing facilities. These facilities also include additional staffing and physical plant amenities, including a lethal electrified fence, bifurcated yard fencing, lockable shower doors, and compartmentalized corridors to further enhance community and institution safety/security. Offenders who have demonstrated violent and/or disruptive behavior within the Level IV general population (GP) setting may be classified to be assigned at one of these seven institutions.

In addition, three of the HSTHU institutions have designated Security Housing Units (SHU) components, which are located at the California Correctional Institution (CCI), Corcoran State Prison (COR), and Pelican Bay State Prison (PBSP). At PBSP there also exists a Transitional Housing Unit (THU) that provides a location for active/validated gang members to disassociate themselves from disruptive group involvement and reintegrate themselves into GP at another institution.

Senate Rules Committee

MAY 22 2007

Appointments

I consider the Associate Director's position within the California Department of Corrections and Rehabilitation (CDCR) to have a primary responsibility in providing operational oversight, direction, and consistency in policy and practice within the seven High Security State Prisons in the Division of Adult Institutions (DAI). Within this responsibility, the HSTHU has a primary responsibility for the protection of the public through maintaining the security and supervision of the State's most serious male criminal offenders within the Department's most secure correctional institutions. Offenders assigned to a HSTHU institution are provided, as available, academic and vocational education programs, as well as Support Services Programs and Prison Industries Authority (PIA) program opportunities. During non-structured program time, offenders may participate within available religious services programs and self-help group based programs. These program opportunities assist towards an offender's assimilation within the Department for life-term offenders or toward the preparation of an offender's ultimate transition back to the community.

Under the administrative direction of the Deputy Director and Director of the DAI, the mission group is responsible for providing managerial direction, evaluation and coordination to the assigned Wardens. The Associate Director advises and directs Wardens on matters related to all phases of the operation at existing institutions. The Associate Director is responsible for the revision, and/or development of policies and procedures regulating the operations of assigned institutions; coordinating the application of existing and new policies with peer Associate Directors and other departmental and institutional management staff to ensure operational effectiveness and standardization. The Associate Director is to ensure continuous alignment with the departmental strategic objectives and participate in strategic and tactical planning efforts. The Associate Director and their assigned staff conducts research, reviews reports, and recommends policy, including both statutory and regulatory proposals, impacting their assigned mission area. They also interact with the Office of Policy, Planning and Research who are responsible for policy development.

The HSTHU offender population has a tendency to perpetuate higher occurrences of violence or operational disruptions, causing the institutions to experience modifications to program activities that are frequently associated with these types of incidents. There is an ongoing need to evaluate Administrative Segregation Units (ASU) due to the potential for overflow, as well as an ongoing need to communicate and work in alignment with the Classifications Services Unit (CSU) and the other mission-based groups and institutions for housing offenders with specific security and/or safety concerns. Street and prison gang influences often impact the operations with the higher security institutions, and new and diverse strategies are constantly being evaluated and implemented to contend with their impact within the Department.

There is also a high incidence of mental health needs often associated with the higher security offender population, which has created the need for expanded mental health

programs to assist with this segment of the population. Most recently, the mission-based group has been evolving with the implementation and management of a Department of Mental Health (DMH) program at Salinas Valley State Prison (SVSP). This program is a collaborative effort between the CDCR and the DMH, which provides closely monitored mental health programs with the assistance of individual and group therapy. In addition, the DMH program provides medication management, to meet the needs of some of the most serious/violent criminal offenders housed within the Department's Psychiatric Services Units (PSU) and SHUs.

An additional challenge, although perhaps not necessarily unique to just the HSTHU mission is that some of our institutions are sited in what may be considered as isolated or high cost of living locations throughout the state. This realization has a direct impact with maintaining necessary staffing within all classifications; abilities and cost associated with meeting acute off-reservation medical needs; and difficulties in establishing effective volunteer based programs and access to visiting operations.

2. *Please describe your top priorities for the next 12-24 months. What do you want to accomplish? Please be as specific as possible and include expected timeframes and how you will measure your success.*

During the next 12 – 24 months, I have several projects that I am working on which are priorities for me. These include:

- Effect staff recruitment efforts and population management strategies to assist in maintaining safe and productive environments for both employees and the offender populations at difficult to staff institutions such as SVSP and other HSTHU institutions that are currently experiencing between 50 and 200 correctional officer vacancies. Based upon prior administrative decisions to reduce CDCR operational costs through the temporary closure of the CDCR's Basic Correctional Officer's Academy at Galt, custody staffing levels at institutions are adversely impacted, which has potentially adverse implications on staff safety, offender program opportunities, modified programs, and the morale of individuals impacted by the shortages. With SVSP experiencing a custody vacancy rate near 20 percent, staff safety, institution programs, offender rehabilitation programs and leisure time activities are a significant concern.

These vacancies are further compounded at specific locations due to the remote location and/or the significant cost of living associated with the immediate areas of some institutions.

While the Office of Peace Officer Standards and Selections (OPOS) under the Human Resources Division (HRD) maintains responsibility for academy operations, Wardens within the HSTHU have been empowered to establish a Warden's Advisory Group to conduct enhanced local recruitment efforts within the Monterey County,

the community of Susanville and other areas to reach out and provide recruitment efforts at community events, local colleges, and employment fairs, with the intent of locating qualified candidates to participate in localized academies. Furthermore, this group has identified a process to establish remote academies within their local proximity to reduce the adverse impact on local prospective candidates, who would otherwise have attended the academy at Galt.

Through the demonstrated support of the Director and ongoing communications with the HRD, it is our intent to establish additional satellite academies within these two locations. Based upon demonstrated accomplishments in past offsite academies, I would project that each offsite academy would be able to qualify and employ between 50 to 100 additional entry level officer positions. It is my intent to complete this process during the next 12 months.

Based upon overcrowding and population pressures having a direct impact on increased staffing needs at institutions, I am currently working with the DAI and the CSU to readjust existing non-traditional beds at the most impacted institution(s). I have developed a plan to consider relocating some of this population within the next 60 to 120 days, which if successful, will reduce the vacancy rate on these facilities.

- Complete implementation of the Estelle Transitional Program (ETP) at PBSP. The CDCR places offenders who represent a threat to the safety and security of other institutions and individuals into SHU. The offenders held in SHU are assigned for either determinate or indeterminate periods of confinement dependant upon the circumstances leading to their placement. This results in a number of offenders who spend a significant portion of their incarceration isolated from the GP and a majority of the associated programs available. These offenders parole to their communities lacking treatment and skill development training, which is beneficial and frequently necessary for successful reintegration back into the community.

This program could have a positive impact on the reduction of the recidivism rate, while creating a safer public and expanding the possibilities for offender's success while on parole. The ETP pilot program places computers in 25 SHU cells at PBSP. Via these computers, offenders are provided a variety of educational and self-help programs designed to assist them as they prepare to parole to the community. Funding was received through the recidivism reduction budget change proposal for the implementation of the program. In April 2006, the ETP was initiated as a pilot program utilizing limited education and prerelease programs within four cells in the SHU. It is my expectation that this program will be finalized and operational with 25 students participating by July 30, 2007. The ETP program's success is anticipated to be measured by the following:

- Number of authorized terminals available for use by offenders;
- Number of offenders participating in the Program;
- Number of offenders who parole prior to completion of program;
- Number of offenders who completed the curriculum;
- Number of offenders paroling with an active SHU term (post implementation);
- Recidivism rate for offenders paroling with an active SHU term (post implementation). Need to create a comparison group (those in program vs. those not in program).

The HSTHU mission-based group is actively working in concert with the Division of Education, Vocations and Offender Programs (DEVOP), the Office of Enterprise Information Systems, and the Office of Research to fully implement this program in the immediate future. The research component is actively being identified to compare participant parolee recidivism rates with a separate identified non-participant control group.

- Statewide implementation of the Inmate Sexual Misconduct regulations and procedures. The CDCR has requested resources to implement a statewide Inmate Sexual Misconduct Reduction Plan. A similar plan is currently in operation on a pilot basis at PBSP pursuant to an injunctive relief order issued in the *Freitag v. CDC* lawsuit. Judge Henderson and the Special Master in the *Freitag* matter have indicated their desire for the CDCR to implement the pilot program statewide for all adult institutions. This decision is being driven by pending litigation in the *Martha Berndt vs. CDC* lawsuit, which is also pending before Judge Henderson, and by the Department's desire to provide a safe work environment for its staff.

The plan includes implementation of security measures that are used to identify, prevent, reduce and eliminate offender sexual misconduct. These security measures include temporary restriction from yard or other settings, use of exposure control jumpsuits, installation of cell-front and/or window coverings and substitution of activity setting. The plan has modified previously existing regulations to limit or suspend privileges of offenders if found guilty of an Indecent Exposure or Sexual Disorderly Conduct incident. In addition, the plan makes all incidents of indecent exposure reportable incidents and requires documentation in accordance with Department Operations Manual (DOM) Section 51030. The revised regulation and policy changes created a provision to allow the CDCR to assess a determinate period of confinement in the SHU for offenders who engage in this type of behavior.

The regulation change was processed as an emergency regulation, and the public comment period was completed on May 1, 2007. The associated DOM section is completed and currently being evaluated by the Office of Labor Relations for potential impact issues. An employee on-the-job training module has been developed and is currently being reviewed by the Office of Training and Professional

Development for approval. Upon potential labor discussions being completed, full implementation on a statewide basis is expected to occur within 60 – 90 days.

Measurements for this program are currently being completed at PBSP. It is planned that these same data collection tools will be utilized on a statewide basis to collect information and evaluate the successful implementation of the program.

- Development of regulations for the intake, housing and discharge of offenders requiring intermediate level of care programming in a DMH Facility. The Salinas Valley Psychiatric Program (SVPP) and the Vacaville Psychiatric Program (VPP) are in-patient programs jointly staffed and operated by the CDCR and DMH. The goal of the intermediate level of care program is to provide enhanced care and treatment to offenders/patients, allowing for their successful return to a lesser intense Enhanced Outpatient Program (EOP); Correctional Clinical Case Management System (CCCMS) level of care, and/or their return to a GP setting and potential release to parole.

In order to ensure the success of this collaborative mental health program, a review of the current processes and written direction has been completed. The review has raised concerns regarding admission of SHU offenders, sensitive needs offenders and offenders with close custody designations and will require modifications to regulatory language. Based on discussions with the Regulations and Policy Management Branch (RPMB), it has been recommended that the HSTHU establish a pilot program to resolve these identified concerns. The benefits to moving in this direction include being allowed to use instructional memorandums to determine the appropriate regulatory language changes and best procedures to ensure effective use of this program.

The pilot program allows a two-year window to develop, utilize and modify language before final regulatory language must be submitted. It is our plan to submit the request for approval of the pilot program during the month of May 2007. The approval process takes approximately 30 days. During this period, a workgroup will be developing the initial instructional memorandum that will begin being used upon approval of the pilot program. The details of the instructional memorandum will be monitored for effectiveness and minor modifications will be made as we work to develop an effective method for handling the admission, housing and discharge from the DMH program. It will be important during this process to engage stakeholders from other areas of the organization to ensure the process is effective for all involved in the process.

My view is that offenders who have a need for this level of mental health care should be eligible to receive it. However, the safety of staff, other participants and the offender himself also require significant consideration.

- Development of regulations and consolidation of the THU program from PBSP and COR to Kern Valley State Prison (KVSP). Currently, the CDCR has a THU program at PBSP which houses approximately 40 offenders in phase 2 of the gang debriefing process. In addition, COR has a similar program known as the Integrated Yard Program (IYP) that is very similar to the program running at PBSP. The average number of participants in the IYP is approximately 25 offenders. The HSTHU has been reviewing these two programs with an expectation to combine them into one program that will be housed KVSP in GP 180 design beds. The final development and consolidation of these programs at KVSP may require regulatory changes. This issue is currently being reviewed by RPMB.

The KVSP has an identified location with sufficient population housing space to accommodate this consolidation of programs. However, based upon observed population changes in the aftermath of the *Castillo* Settlement Agreement, setting due process expectation on gang validation/management within the CDCR, the number of participants interested in participating in this program seems to be diminishing.

As population needs continue to demonstrate the need for an expanded THU Program, it is our intent to establish the THU at KVSP within the next 12-18 months.

- Activation and/or expansion of the vocational training programs at a minimum of four of the high security institutions. In July 2005, the CDCR completed a reorganization and name change. The mission of the CDCR expanded and rehabilitation became a major focus within our institutions. With a rapidly growing offender population, it is understood that rehabilitation plays a key role in managing the population and providing offenders with the tools necessary to successfully reintegrate back into society.

With this mission change, a re-examination of educational approaches has demonstrated the importance of providing a continuum of services to offenders including educational and vocational opportunities for preparation to reintegrate into society. Incarcerated individuals must have academic and occupational programs available in conjunction with re-entry programs that emphasize the transitioning process back into the community. This includes establishing strong linkage with support services such as employment, health care, housing, and substance abuse treatment. Since homelessness and joblessness contribute to parole failure, education and re-entry programs must provide training for incarcerated individuals to develop fundamental, cognitive coping mechanisms and employability skills to assist a parolee in gaining meaningful employment and ensuring a heightened awareness of the importance of family reunification.

The following indicates the vocational programs that were established effective January 1, 2007, through the hiring of vocational instructors, and the status on these high security vocational programs as of May 10, 2007:

- **Pelican Bay State Prison:**

1. Landscape Gardening
2. Printing Graphic Arts
3. Auto Body and Fender Repair
4. Auto Mechanics

The PBSP has hired education staff for Auto Body and Auto Mechanics and should be operational with these programs in mid June 2007. PBSP is, however, experiencing recruitment problems with their Landscape Gardening and their Printing Graphic Arts Programs.

- **Salinas Valley State Prison:**

1. Janitorial (2)
2. Office Services and Related Technologies (2)
3. Auto Body and Fender Repair
4. Landscape Gardening

The SVSP has hired instructors and is currently operating two of the six vocational programs. The two programs hired for and operational are one Janitorial and the Landscape Gardening program, both on their Minimum Support Facility. The SVSP has postponed the other programs, pending resolution of staffing and position shortages.

- **High Desert State Prison:**

1. Building Maintenance (2)
2. Auto Mechanics

The HDSP currently has the Vocational Auto Body Program up and operational. Offenders were assigned to the program on April 14, 2007. The Vocational Building Maintenance Instructor should have the program operational in approximately two weeks. Offenders/students have been identified and assigned and will start when the program operational. The HDSP is currently having recruitment problems with the Vocational Plumbing program. There is currently no viable certification list that exists for the instructor; a local examination is in process with a final filing date of May 11, 2007. There are no current issues with security staffing.

- **California State Prison Sacramento:**
 1. Janitorial Services (3)
 2. Office Services and Related Technologies (2)

The California State Prison-Sacramento (CSP-SAC) has currently hired all of their vocational instructors and has been proactive in operating modified versions of the programs. The CSP-SAC currently has not received authorized positions to fully implement the totality of the programs.

The HSTHU has made ongoing efforts to acquire additional position authority through position redirections and the Budget Change Process; however, these processes have not been completely successful to date. An additional effort is now in progress to identify resources through the recent passage of Assembly Bill (AB) 900. It is my intent that these positions will be operational by August 1, 2007.

- Development and support of Alternatives to Violence Program (AVP) at all High Security Institutions. Wardens of institutions within the High Security and Transitional Housing mission have been directed to initiate the implementation of an AVP for their high security populations. The Alternatives to Violence group at three institutions is sponsored by the AVP California Prison and Community Workshop. The AVP began in 1975 as collaboration between offenders in Green Haven Prison and Quakers interested in working with youth gangs and teens at risk. This successful, ongoing program quickly spread throughout New York State prisons and then to other states. Through a network of local chapters, AVP facilitators — all trained volunteers — offer workshops and support groups in prisons as well as in the community for all who would like to reduce the level of unresolved conflict in their lives. The AVP offers Basic, Advanced, and Training-for-Facilitator Workshops. Workshops are fast-paced, weaving together interactive exercises, facilitated discussions, role playing, humor and games. The AVP offers prison programs, helping offenders learn new skills and attitudes that lead to fulfilling and crime-free lives.

This implementation of these programs is ongoing and at this time no measures for success have been developed, other than the verbal praise received from both participating offenders and staff. Participation in the AVP thus far at the HSTHU institutions includes, CCI, High Desert State Prison (HDSP), and SVSP. These three institutions have initiated programs with AVP Facilitators. The balance of institutions are currently on schedule for a program with AVP and/or are awaiting additional local community volunteers to facilitate the program.

- Alternative management strategies for disruptive population segments. Management of our gang population continues to be one of my most serious concerns. The CDCR has taken the first step to manage this population with the creation of Behavior Management Units (BMU).

The CDCR identified a need to take immediate and appropriate corrective action to prevent offender involvement in disruptive behavior, violence, and continued non-compliance with CDCR rules and regulations. As a result, the BMU pilot program was developed and implemented in November 2005. The BMU is a four-step program using evidence-based curriculum such as CALM (anger management), "A Framework for Breaking Barriers", and Alcoholics/Narcotics Anonymous. The BMU is an alternate GP program intended to modify recalcitrant offender behaviors through education, strict controls on property and privileges, and appropriate disciplinary action.

The BMU offers violent offenders self-improvement programs that will help with their transition process back to the mainstream prison population, and ultimately, the community. Within the prisons, the BMU programs will help offenders develop basic, cognitive coping mechanisms and life skills that will assist them to function more appropriately in the prison environment. The BMU removes a disruptive element from the GP, thus allowing the remaining offender population to program with reduced violence and disruption to programs.

I believe this was a good first step, but additional strategies will need to be developed as we move forward. As the gang and disruptive group populations grow, more and more offenders are requesting housing in protective custody. The Department continues to convert facilities to Sensitive Needs Yards (SNY) to facilitate this growth. At the present time, approximately 1,600 offenders are in reception centers and ASU beds pending transfer to an SNY.

The CDCR currently has six BMUs operating on a pilot basis. The regulations have been drafted and are being reviewed at various levels in the organization. The BMU pilot will expire on November 20, 2007. It will be critical to have regulatory language in place to continue to move forward with this type of a program.

3. *What management experience has prepared you for this role? What management training have you received?*

I began my career with the California Department of Corrections and Rehabilitation approximately 27 years ago. I have gained a working knowledge and practical experience of the State's corrections system through progressive promotional opportunities. I have extended experience working in the capacity of Warden between the dates of September 2000 and July 2006. I was appointed to the position of Warden

and subsequently Legislatively Confirmed at Centinela State Prison located in Imperial County. This assignment required management of approximately 1,192 staff, and an offender population of 4,928.

I have been previously assigned and performed the duties of Chief Deputy Warden, Correctional Administrator, Southern Region, Associate Warden, Facility Captain, Investigative Captain and Correctional Captain of Custody Operations.

I have earned a Bachelor of Science Degree in the field of Criminology at California State University at Fullerton in 1985, and I earned an Associate of Science Degree in the field of Administrative of Justice at Chaffey Community College in 1979.

In addition to my practical management experience, I have participated in formal classroom training. These programs include:

- The Leadership Development Program, December 2005
- Department's Leadership Institute, Chico State University, June 1996
- Internal Affairs Investigation Training, September 1995
- Advanced Investigation Training, National Law Enforcement Institute, Inc. November 1995
- Management Training Program, CDC, November 1995
- Criminal Investigations Training, Sacramento City College, May 1990
- Training for Trainers, CDC, June 1989
- Advanced Supervision Training, CDC, August 1998
- Conflict Management Training, CDC, February 1987
- Basic Supervision Training, CDC, November 1984

The Department's primary leadership program is a multi-level leadership development and succession strategy to assure that the offender reforms and public safety continue uninterrupted into the next decade. The program is highly interactive and provides a unique blend of opportunities and challenges for CDCR's existing and future leaders. The leadership program has assisted in enabling me to assess and develop my leadership skills, to integrate leadership theories and practices, and learn to address critical correctional professional issues confronting the CDCR. I completed a 360-degree individual assessment tool, which provided me with feedback relative to my leadership style and my abilities based on core competency areas. Some of these areas include, future role of leaders building trust, leveraging diversity/building personal leadership skills, communication issues, dealing with power, politics and change, and assessing organizational performance modeling quality leadership.

4. *How do you allocate your time given that the prisons under your jurisdiction are located in some of the state's most geographically isolated institutions, including Pelican Bay State Prison on the north coast and High Desert State Prison in Susanville?*

The Associate Director for the HSTHU is responsible for planning, directing, organizing, facilitating, monitoring, evaluating and adjusting their assigned mission-based institutions operations program to ensure continuous alignment with departmental strategic objectives, statutory and regulatory requirements and departmental policy and procedure.

Based upon geographic separation and associated headquarters responsibilities, I provide functional supervision over the assigned mission institutions and Wardens via a multifaceted approach. In order to gain proper perspective, develop personal relationships and acquire a first hand knowledge of each institution, physical tours with assigned Wardens and/or members of their management team are necessary. As possible, I attempt to combine an institution trip with other Department activities occurring within the area/region. I also use a variety of other established methods to maintain oversight of key institutional functions, as well as maintain daily and weekly contact with my assigned institutions. My assigned institutions provide Daily Activity Reports for my review and assessments that provide a briefing on significant and/or unusual activities and occurrences within the institutions. I make myself available for contact on a twenty-four hour a day basis, to provide oversight, mentoring and guidance to Wardens and management team members within the Mission's jurisdiction. I participate in collaborative meetings with the Director, peer mission Associate Directors, and all statewide Wardens on a quarterly basis, as well as schedule and participate in offsetting quarterly mission-based meetings with the HSTHU Wardens regarding issues related to our mission.

I ensure that each of my assigned institutions receive an appropriate Operational Review on a scheduled basis by a headquarters' team established from my HSTHU personnel, and that appropriate Corrective Action Plans are developed for subsequent compliance with follow-up reviews. I also maintain daily/weekly contact with each of the assigned Wardens/institutions via individual and group telephone conference calls. I issue, monitor and follow up on Official Mail Control and Audit Compliance Instruments on an ongoing basis. I and my staff monitor Incident Reports, Use of Force Reviews, Emergency Medical Reviews, and Modified Program/Lockdown Status Reports. I participate in conference calls after an institution's initiated Modified Program exceeds 60 days, and then subsequent interaction is maintained every 10 days until the Modified Program/Lockdown is resolved. I use assigned mission-based personnel to tour specific areas and/or programs at an institution for operational reviews, as well as conduct situational reviews of in-cell assaults/homicides, and suicide occurrences.

Based upon the level of activities occurring within the institutions and related communication requirements, the average workday often begins at 7:00 a.m. and does not conclude until approximately 7:00 p.m.

As the Associate Director I am the hub for communication between the headquarters operation and the field. I manage daily communication with the field regarding activities and assignments via email and intranet communications, in which policy and procedure and operational issues are discussed and acted upon. Additionally, I interact with offenders, their family members, and Inmate Family Council (IFC) Groups via telephone, internet communication, mail correspondence, and participation in joint meetings. I am also able to effect ongoing review of operational concerns via a monthly/quarterly mission-based Computer Statistics (COMPSTAT) report, which gathers and provides a standardized method of oversight for significant operational areas within the institutions, such as population management, staffing levels, budgetary control, program participation, inmate appeals, employee grievances, significant incidents, deaths, escapes, lockdowns, employee discipline, etc.

5. *How do you keep yourself apprised of what is happening inside the prisons? Beyond the warden, do you meet with staff representatives, the CDCR Ombudsman, the inmate advisory councils organized at each prison, and/or inmate families?*

During tours at institutions, I have had the opportunity to interact with a variety of personnel as well as offenders. I have interacted with Custodial Officers/Supervisors, Records Personnel, Health Care Personnel, ASU/SHU Personnel, Academic and Vocational Education Instructors and Supervisors, Chaplains, Administrative/Business Services Personnel. I have interacted with assigned Parole Unit Staff, and I have had interactions with Attorney's participating in special visits.

I have conducted joint tours with the Federal Receiver over Health Care Operations, and interacted with medical, dental and mental health staff during these reviews. I also sit in on Health Care Governing Body Conference Calls at the institutions, as well as participate in exit interviews with delegated plaintiff's attorneys in litigation-monitored reviews.

I have participated in joint discussion meetings with the various Ombudspersons assigned to the HSTHU institutions, as well as participated in subject specific conferences for issue/conflict resolution. Most issues that I have interacted with the Ombudspersons have involved issues related to visiting, mail correspondence, modified program, allowable property, and family concern issues. I believe that both an effective and cooperative relationship exists between these specialized staff and myself.

I have participated in multiple statewide IFC Meetings; however, I have not as yet participated in a local IFC or Inmate Advisory Council meeting within the institution setting. I have reviewed issues brought forward by local IFC Committee's via information contained in submitted staff meeting minutes. I have regular contact with family members of offenders assigned to my institutions via telephone communications, as well as mail correspondence. I have met with some inmate visitors relative to their visiting privileges being denied due to inappropriate and/or illegal activities while on state prison property.

I am an active participant in monthly statewide meetings regarding Second and Third Level Inmate Appeals. Participation in these meetings provides me with an overview of all recorded appeal issues occurring within my assigned institutions, which has assisted me in working more closely with Wardens who may have specific issues related to their institutions, such as overdue appeals, use of force issues, modified program concerns, etc. I have participated in similar meetings/briefings with Bureau of Independent Review and Office of Internal Affairs, who provide oversight data for reviewing specific concerns related to issues at identified institutions.

6. *As you review the institutions under your jurisdiction, what do you look for to determine whether a prison is operating well? What do you consider "red flags?"*

The daily operations within an institution are often compared to that of a small city with its own operational budget, corporate yard, physical plant, communities and citizenry, public works, office of education, law enforcement and firefighters, community hospitals and public health centers. The daily operations within a state prison offer many of the same or similar functions as that of a local community, and with that many of the same potential challenges or complications if not regularly monitored and managed through available resources.

I believe that the cornerstone for maintaining security in an effectively managed institution is based upon the existence of five key components: having a well maintained physical plant; maintaining appropriate staffing to facilitate all necessary operations of an institution; a sound knowledge and physical application of the Department's Classification System, effective and up-to-date Operational Procedures and Post Orders, and an effective training program to maintain the needs of the staff.

Areas that I consider demonstrate that an institution is functioning well and in a state of sound operational health would include the initial appearance of an institution that it is clean, sanitary and clear of clutter and debris. The appearance of the staff and offender population and that effective communication avenues exist between staff and offenders to bring resolution to issues.

Issues that I consider significant red flags normally come in two separate varieties, those that are immediate situational occurrences and those that, if allowed to manifest and fester, will cause operational breakdowns within the institution if not dealt with and effectively resolved. I monitor key indicators that provide a view of the status of significant areas of institution operation. Red Flag type issues are also monitored monthly/quarterly through the Department's standardized COMPSTAT reporting process. Most of the categories that I regularly provide oversight would fall within the descriptions identified below:

- Offender and employee morale and interpersonal relations
- Demonstrated communications and meetings with Inmate Advisory Groups, Inmate Family Councils, and Citizen Advisory Committees
- Management Team's demonstrated knowledge regarding significant issues effecting the institution
- An established inmate Appeal System, with a control over the time limitation for timely effective responses
- The presence of effective management/labor relations
- Daily reviews and effective communication of significant occurrences
- Management of the institution's authorized staff capacity
- Management of ASU Beds and overcrowding
- Management/Reliance on single cell needs
- Management of fiscal resources within Operational Budget allocation
- Adherence to established disciplinary methods
- Efforts of drug interdiction and suppression
- A formal process to establish, track, communicate, and manage the implementation and deactivation of Modified Programs
- Occurrence and nature of significant inmate disturbances
- Monitoring and management of offender suicides and/or attempts
- Functioning academic and vocational education programs, and the availability of religious and self-help group programs
- Unusual or significant Workman's Compensation injuries/claims
- An effective employee grievance program
- The use of excessive employee sick leave
- The presence and use of an effective employee discipline process
- Receipt of Regulatory Citations or increase in number of community/legislative correspondence
- Received correspondences from offender family members elated to their experiences in our institutions and related to their incarcerated family members

Through experience that I have gained as a manager in the Department and the time I managed as a Warden within the institution setting, I have developed a sound working knowledge of issues that should be monitored and may create negative consequences with in an institution, Department, and/or state government if left unattended.

As operational reviews, local inspections, and regulatory audits and reports bring issues of significance to light, I work in concert with Wardens and their management teams to develop and track corrective plans for resolution to issues.

7. *What issues do you expect individual wardens to bring to your attention? Please provide specific examples, if possible.*

I have developed a set of expectations that I have provided to the institutions within my jurisdiction that require immediate reporting, as well as issues that should be monitored on a regular basis for potential consequences. There are various contact methods and reporting requirements that are associated with events, depending on the nature of their potential impact. I expect that each institution Warden contact me directly each day should any of the following occurrences take place within their institution:

- All offender homicides, deaths, or suicides
- All staff deaths
- Any serious injury to staff or offenders
- All major offender disturbances
- All escapes and/or walk away occurrences
- All staff arrests
- Disruptive offender actions, i.e., hunger strike, work strike, etc.
- Any major disruption that effects the normal operation of the institution, i.e., natural disasters, long term power outages, major structural damage to the institution.
- Employee job actions
- Serious employee discipline/investigation
- All legislative contacts other than routine, which require follow-up
- All media contacts
- All community functions such as open house, career day, recruitment efforts, charity events, etc.
- Unbudgeted expenditures, i.e. no unauthorized positions or programs

There is also an expectation that these items are reported each following morning in written format, containing all essential details of significance. Based upon the magnitude of these occurrences, the information is communicated via the chain of command and/or to other impacted divisions within the agency.

8. *How do you measure an institution's commitment and capacity to implement the department's rehabilitative mission? What authority and resources do you have to make improvements when you determine that they are needed? Please provide specific examples, if possible.*

The Warden of each of the HSTHU institutions maintains direct responsibility for the individual education department. The Office of Correctional Education (OCE) provides functional supervision to the school site Principals and serves in an advisory capacity to the institutional administration regarding educational issues. The individuals responsible for the academic, vocational, and education related self-help programs at the individual institutions are the school site principals. Assigned Administrative Assistants and other institutional staff also assist the Warden with leisure time self-help group recruitment and sponsorship.

I monitor the implementation of viable rehabilitation programs and attendance via monthly participation records provided by each of the HSTHU institutions. I have seen a specific commitment exhibited by several of my assigned Wardens through specific requests to establish additional academic and/or vocational education programs within their institutions. The HSTHU Wardens understand that the presence of effective rehabilitative programs not only prepares an individual for potential future release to the community, but also has a significant impact on reducing tension, hostilities and occurrences of violence within the institution.

I measure my assigned Wardens commitment to the Department's rehabilitative mission through formal and informal declaration of support in administrative meetings, discussions with staff, and presentations within the local community. I also note the level of request for additional programs and follow-up for specific types of education training activities. At one institution, CSP-SAC, the Warden requested several additional vocational education programs be established at the institution, to compensate for prior years of incurred position cuts and an increase in overcrowding. Through their efforts and effective dialogue between the Mission, the Director of DAI, and the Director of the OCE, we were able to establish five additional vocational programs at the institution, three Janitorial Services Programs and two Office Services and Related Technology Programs.

Although these programs and associated instructors have been authorized and established, custody supervision to provide for these out of cell programs has not been authorized/funded for activation. Rather than allowing these viable programs to remain stagnant, pending funding allocation for additional custody resources, the Warden and local Principal have developed a cooperative method to provide instruction within the offenders assigned housing units. The level of motivation and collaboration between the Warden and Principal was vital for this interim process to be successful, and clearly demonstrates the commitment to rehabilitative programs exhibited by the Warden and his staff.

The Mission has attempted to reclassify other department positions to provide custody supervision at CSP-SAC and other HSTHU institutions, as well as having submitted a Budget Change Proposal to establish position authority. These avenues have met with minimal success, and we are currently using resources and meetings in attempt to identify additional funding/position authority within AB 900 to support CSP-SAC's' need for education support, as well as four other High Security Mission institutions.

During a quarterly meeting that I convened with my Wardens in December 2006, I proposed the establishment of an Alternatives to Violence Program (AVP) within each of their Level IV facilities. Based upon my knowledge and experience with one of the statewide coordinators, Ms. Patricia Hardy, I have found the self-help group program to have a significant impact upon diverse groups of the offender population. Each of my assigned Wardens have currently either established and initiated the volunteer based workshop at their institution or are on schedule to initiate the program. Institutions that have implemented the program have noted significant effects on individual and group participants.

During times of prolonged modified programs, Warden and Principals have developed Alternative Education Delivery Models (AEDMs), which provide a modified continuum of education services to offenders through the duration of the suspended program. The AEDMs provide a means to deliver educational services to offenders within their housing units and cells during protracted lockdowns.

I have been participating in meetings and discussions with the Chief Deputy Secretary, Adult Programs, Ms. Marisela Montes, and the Director of the DEVOP, Mr. Frank Russell to identify additional viable programs and self-help group activities, as well as to identify alternate methods of resolving barriers that may impede the education delivery process.

My role is to facilitate bringing viable programs to the HSTHU institutions, engage the Wardens to resolve issues and provide oversight to maximize educational opportunities for the HSTHU offenders and to facilitate resolution of identified barriers. Education's role is to identify appropriate programs and work collaboratively with my staff and the institutions to effectively implement those programs. I also communicate program priorities and requests to the Chief Deputy Secretary as needed for assistance and work with the Chief Deputy Secretary on cross divisional operational and program issues.

9. *If we were to visit every institution under your jurisdiction, where should we expect to find consistency and standardization? Where would we expect to see variation? Please give some examples of where you have established consistency across the prisons under your jurisdiction?*

In visiting the institutions under my jurisdiction, I believe you would find consistencies in the following areas:

- Establishment of a Standardized Property Matrix for Level IV, 180 Design, and SHU facilities
- Standardization in escort and security transportation methods for Level IV, 180 Design, and SHU inmates
- The presence and operation of a lethal electrified fence
- Standardized methods in reporting, monitoring, and de-escalating lockdowns and modified programs
- Establishment and programming opportunities within Level IV Academic and Vocational Education programs
- Development and implementation of AVPs
- Management of SHU operations
- Staff discipline via DOM Chapter 3, Article 22
- Management and review of CDCR Incident Reports and associated Use of Force Reviews, and In-Cell Assault reviews
- Self Help Groups: All seven HS&TH institutions have an Alcoholics Anonymous self help group. All have alternative educational models in independent study programs. All have college programs
- 30-Minute Welfare and Suicide Prevention Checks in ASU
- Classification and review process. For Education, Vocations, Custody, Housing, etc.
- Staffing based on physical plant design (i.e., 270 design, 180 design)
- Institution operational statistics – reporting and monitoring (COMPSTAT)
- Using alternative methods (including cell-front) to provide educational services to offenders who are unable to attend traditional classes

As the institutions under my jurisdiction range in construction age from five years old to more than sixty years old, there are variations within the physical plant and internal operations. There are also distinct differences based upon local mission variances and previously established local policies and procedures. Among these variances are:

- Physical plant design
- Variety of missions within each institution (i.e., EOP, CCCMS, GP, THU, PSU, SHU, THU, IYP, Intermediate Care Facility, etc.)
- Unique staffing based on variations to local missions
- Local agreements reached with the local employee organizations

During my tenure, I have established a working level of consistency pertaining to allowable inmate property within a Level IV, 180 design institution, the establishment of Indecent Exposure Protocol and Regulations, the management of modified programs and lockdowns, the development and implementation of AVPs, reporting methods and review of in-cell assaults; program to conduct 30 minute interval suicide prevention checks on ASU inmates during initial 14 days of placement; and the development of Transitional Placement Units (TPU) for Sensitive Needs inmates.

Staff Issues

10. *What role do you play in identifying and providing staff training at each of your institutions? Please provide specific examples.*

The CDCR has established a core group of identified mandatory training curriculum for each classification that is employed within a correctional institution. In addition to this mandated training, there exists a 40-hour block of required on-the-job training that is provided by supervisors to their employees on the work site. A portion of these identified training hours is site specific, in which I will work with assigned Wardens to identify unique training needs at a specific institution. For example, with institutions that have SHU, a lethal electrified fence, or a Substance Abuse Program, site enhanced training will be identified for providing to the affected staff at the institution.

As the Associate Director for the HSTHU mission, I provide oversight for institution training operations, provide recommendations to the Director and the Training and Development Division, as well as identify and request specific types of training as occurrences and/or circumstances warrant. In addition, when new policies and procedures are developed that affect operations within the field, my staff and I develop standardized lesson plans in collaboration with the Training and Development Division.

As an example of necessary training that I have requested to be conducted by my assigned institutions, I have designated specific training related to critical information learned in the aftermath of the tragic homicide of Correctional Officer Manuel Gonzalez Jr. on January 10, 2005, at the California Institution for Men (CIM) at Chino. Following this incident, the Office of the Inspector General conducted a Special Review into the circumstances surrounding the stabbing death of Officer Gonzalez and issued a Summary Report of their findings. The Special Review identified systemic procedural and policy deficiencies, procedural violations and other factors that contributed to Officer Gonzalez' death.

In response to the Summary Report, I issued all pertinent information relating to the review to each of my assigned Wardens during a quarterly warden's meeting, and discussed the policy and procedural shortcomings that were identified within the review. I requested that each of the Wardens establish a local on-the-job training program to

provide this training to all of their local personnel, and to conduct a review of the same type of issues at their own institutions. This training was initiated in March 2007, and currently remains in process for our approximate 9,000 mission personnel. I issued a completion date for this training by June 1, 2007, which is being monitored for compliance by my staff at headquarters.

As a second example of identifying staff training needs and implementing a standardized training process, I was designated in December 2006 to direct a core group of specialized CDCR staff to develop a statewide procedure, policy and implementation plan governing the control of indecent exposure and sexual disorderly conduct occurrences within the Department's 33 institutions. The new procedure was being developed to prevent potential further litigation similar to the *Frietag* Sexual Harassment law suit.. Subsequent to the time invested in developing an effective procedure for the program, I worked with my staff in creating a corresponding Lesson Plan to provide structured meaningful training for the new program. Due to fiscal limitations, we developed a structured two-hour on-the-job training module, which is currently pending distribution to the field. We are additionally in the process of developing a related declaration of certification to formally record and memorialize this litigation intervention training component.

I have a fundamental role as the Associate Director to supervise and work collaboratively with the Wardens in the identification of specific institution training needs. The discovery of supplemental training needs is accomplished by conference calls, warden's meetings, mission meetings, conducting security audits, COMPSTAT Report reviews, and maintaining day-to-day communication with the institutions.

I recently received a correspondence from the Warden at PBSP during the month of April 2007, in which he explained to me that following a recent review of staff knowledge concerning treatment of confined offenders with physical disabilities and/or limitations that it appeared his staff could use additional training concerning the identification and processing of the offenders/patients. Upon receiving this training request, I collaborated with the Department's Court Compliance Unit and a peer Associate Director, who is assigned to monitor compliance with litigation related to this training issue, and we together formulated a training plan for PBSP. This training has been designed to provide fundamental knowledge to rank and file personnel, as well as provide advanced familiarity training for supervisors, who will be able to be subject matter experts at the institution and provide future training on the subject matter.

Again, I view staff training as one of the five key elements fundamental to establishing and maintaining a safe, secure and functional state institution. I will continue to monitor the completion of annual training requirements and evaluate needs and circumstances for future training opportunities.

11. *How do issues of staff safety come to your attention? Please describe your role in addressing these issues and provide specific examples.*

Issues pertaining to staff safety concerns are brought forward to my attention through a variety of different avenues. Some of these include telephone contacts, correspondences received at headquarters, notifications by assigned Wardens regarding possible health and safety issues, staff grievances, reviews of the institution's executive staff minutes, security audits, Worker's Compensation Claims, reviews of Incident Reports, headquarters' Use of Force Reviews, reports of staff assaults, and Critical Information Reports issued from the Office of Correctional Safety.

I also endeavor to work closely with the Office of Risk Management to ensure identified staff safety issues are effectively communicated and rectified. These methods of reporting provide me with an effective overview of relevant safety issues throughout my institutions. I will normally discuss issues with the impacted Warden and request appropriate follow-up via after action reports or corrective action plans.

As issues are identified or come to my attention, I communicate with the impacted institution's Warden and ask that they provide me with information about the occurrence. I will dialogue with the warden for their assessment and recommendations about how to proceed and then provide guidance regarding their recommendations. In some cases, the verbal discussion is sufficient to resolve the situation; however, in others, the Warden is given a specific assignment to make changes to attain compliance with identified direction.

In November 2006, there was dialogue occurring at KVSP between the California Correctional Peace Officer's Association (CCPOA) and institutional labor relations staff regarding the number of radios available for issuance to staff. The CCPOA felt the issue was not being handled in a timely manner and sent a letter to the Director of the DAI. At the same time, I was made aware of the situation by the acting Warden. Through discussions with the Warden, he followed up on existing barriers related to procurement and accounting issues at the institution. As an outcome of our discussions, we were able to eliminate the roadblocks and expedite the purchase orders to be processed. The Warden provided some timeframes to the CCPOA and the institution was able to resolve the issue. Staff at the institution felt that the management team was responsive to their needs. As a means of drawing closure to the discussions and action taken, I subsequently drafted a correspondence to the local Chapter President of the CCPOA and advised them of the impending action.

A second example of evaluating the potential impact for staff, as well as offender safety, came from a recent review and assessment of an in-cell assault at one of my HSTHU institutions. Based upon the serious injuries incurred by one of the cellmates, I dispatched one of my staff from headquarters to the institution to conduct an in-cell assault review. Upon completion of attaining all relevant documents pertaining to the

occurrence, I noted that the housing practices being utilized in this specific area appeared to be in noncompliance with departmental policy concerning appropriate utilization of the classification process. The existing process allowed for potentially violent offenders to be housed in a setting that could compromise both staff and offender safety. I directed my headquarters' staff to request the institution's local operational procedure for this program and learned that the practices being used in this area were also documented inappropriately within their local operational procedure. I directed the institution to immediately discontinue the housing practice, and place the building on a Confined to Quarters (CTQ) status, hold classification committee for all impacted offenders, and revise their operational procedure to be in compliance with departmental policy.

Each of the HSTHU institutions also has a local health and safety coordinator and committee that meet monthly to identify and evaluate potential areas or work practices that represent a threat to staff safety. I work closely with my field management teams to reduce the potential for unsafe work conditions and personnel practices, and I effect appropriate follow-up to situations for effective resolution.

12. *The department has several leadership programs for first and second line supervisors (The Leadership Challenge) and managers (Sacramento State Leadership Development Program). What are you doing to ensure that the lessons learned from the programs are applied/coordinated? Please be specific. How have you applied what you have learned from these classes?*

The Leadership Development Program (LDP) is designed for designated managers. This highly interactive learning program provides a unique blend of opportunities and challenges for CDCR existing and future leaders. Focus on this new learning will enable staff to access and develop their leadership skills, to integrate leadership theories and practices, and to address critical correctional professional issues confronting the CDCR.

The Leadership Challenge Workshop (LCW) is designed for first and second line supervisors. The LCW has stemmed from a joint partnership with the Sonoma Learning Systems. The workshop is an intensive, highly interactive and stimulating program based on the award winning book, The Leadership Challenge. The participants are exposed to concrete tools and knowledge necessary for an effective leader.

The California Public Safety Leadership and Ethics (CPSLE) program is offered to executives, managers and supervisors. The program was developed to bring concepts of leadership and ethics to the forefront of an individual's career. The mission is to develop quality leaders at all levels of public safety organizations through innovative leadership and ethics education. This program is designed to have individuals develop critical thinking skills through four levels of increasingly complex learning experiences.

As the Associate Director, I encourage my Warden's to attend and complete the programs appropriate for their current assignment. I also encourage them to send all qualified staff from their institutions. At times, this effort becomes challenging to Wardens, in part due to high levels of vacancies in some classifications. I continue to stress the importance of the materials being presented and the need to ensure staff under their supervision are prepared to make future advancements within our organization. To date, the following number of supervisory and management staff have attended these programs:

Prison	LDP	LCW	CPSLE
CCI	8	20	4
COR	7	14	4
HDSP	8	25	2
KVSP	6	15	1
PBSP	8	24	1
SAC	8	6	3
SVSP	6	24	5

I have asked that the assigned Warden's engage participants upon their return from the training programs to assess what their staff have learned and determine how best to apply these principles into the workplace setting. Discussion with the Wardens and their supervisory staff occurs during monthly supervisor meetings, and meetings with management team members occur both individually and during Executive Staff meetings. I participate in conference calls with the Deputy Director and Director, where supervisory development and participation in succession training remains topics of ongoing discussion.

During a recent conversation in March 2007 that I had with my newest assigned Warden who is actively going through the vetting process, he informed me of specific issues that he was having with a subordinate manager. He originally advised me of the method he was intending to use to apply corrective action to the manager in an official written letter of instruction. However, I assisted him in reiterating the methods provided for within the LDP to prepare for an improvement discussion with an employee, which provide for setting an environment of trust, honesty, inspiration, development and accountability. Subsequent to this dialogue, I received a contact back from the Warden a few days later, in which he explained to me the success he experienced with his employee work improvement discussion. And, that he believed that he and the subordinate staff developed a better understanding of each other and the mission at hand.

In addition to addressing personal growth and professional development issues, these programs focus on such strategies as dealing with power, politics and change; multigenerational workforces; trust; and organizational transformation. The program

includes the five leadership practices of Kouzes and Posner, which are key in refocusing the CDCR leadership on the rehabilitative mission, changing the CDCR culture, and encouraging the use of common leadership language and behaviors.

In my interactions with both my headquarters staff and my field institutions, I attempt to lead through positive example. The Five Principles of Exemplary Leadership are: Model the Way, Inspire a Shared Vision, Challenge the Process, Enable Others to Act, and Encourage the Heart. I believe that my management style encompasses many of these principles.

13. As of December 31, 2006 there were more than 488 correctional staff vacancies at prisons under your jurisdiction. What are you doing to reduce the number of staff vacancies and recruit new officers? What progress can we expect to see in the near future? What role have you played in determining where new academy graduates are sent?

As I previously noted within my response to question #2, the issue of Correctional Officer/Supervisor vacancies in the Department and within the HSTHU mission-based group is one of my chief concerns. The identified vacancy number of 488 includes the classifications of Correctional Officer, Sergeant and Lieutenant positions. The number of vacancies since December 2006 has continued to increase, with most recent COMPSTAT numbers reflecting a consolidated vacancy of 640 custody positions within the HSTHU mission-based group.

As identified in my primary goals, within my response to question #2, due to the temporary closure of the Basic Correctional Officer's Academy at Galt, custody staffing levels at the institutions have been impacted.

The vacancies in our mission are further compounded at specific locations due to the remoteness of their location and/or the significant cost of living associated with the immediate areas of some institutions. At SVSP, for example, the custody vacancy level borders 20 percent. In addition, at SVSP, the existence of nontraditional beds and an extension of the DMH have even further exacerbated the vacancy percentage.

I have advocated in support of the Department's recruitment efforts and have directed Wardens to select staff to participate in this effort throughout my institutions. For example, in the past several months PBSP has provided institutional tours to various colleges such as College of the Redwoods, Humboldt State University and Southern Oregon University. Most of the students are majoring in the criminal justice arena. The feedback from the students has been positive and encouraging. In fact, staff from PBSP recently attended two events at local colleges that produced a number of completed state applications for Correctional Officer.

Additionally, there are extended recruitment efforts underway at SVSP within the local communities surrounding the institution. Additionally, the Warden has scheduled open house tours of the institution for perspective new cadets. The prison offers the written exam on grounds, and those that pass are moved on to the second phase of the process. In a collaborative effort between the DAI, OPOS, and the management team at SVSP, applicants who have submitted applications interested in employment at SVSP are being expedited through the hiring process. Division Support and OPOS meet monthly to ensure the recruitment efforts are focused appropriately. Our goal is to fill all existing officer vacancies by Fiscal Year 08/09. A similar type of approach has also been adopted for other institutions with high vacancy levels.

In addition to this strategy, the Warden at HDSP has been assigned to lead a Wardens Advisory Group in the development of a process and implementation plan to have local recruits attend a satellite academy on grounds and/or near the institution the cadet will ultimately be employed. This concept has been considered and used previously with much success within the northern community of Susanville for its two geographically located state prisons.

The CDCR is also in the active process of attempting to site a southern California Academy site, which should significantly assist in training and hiring additional numbers of Correctional Officer Cadets throughout the state. Through being able to fill other vacancies in the department, stabilization will ultimately take place that will assist in easing the vacancy situations at the more remote and hard to fill institutions.

However, in the mean time, it is recognized that exiting vacancies will continue to impact institution operations until a staffing stabilization occurs. Therefore, at SVSP we have submitted several recommendations to the Directorate to assist in providing more immediate relief. One of the recommendations that I have submitted and am advocating is to reevaluate the current population numbers of nontraditional beds (Gyms and Dayroom Floors) at the institution, with the intent of reassigning this population to a similar custody designated institution with less severe staffing shortages. In addition, we are currently modifying facility yard programs on weekends to reallocate staffing resources necessary to accommodate inmate family visiting. I have also submitted a recommendation to request a list of volunteer Correctional Officers from other less severely impacted institutions to serve on 60-day strike teams to offset vacancies and overtime utilization at SVSP.

I have asked Wardens assigned to the HSTHU with the most significant vacancy percentages to provide weekly updates pertaining to their custody staffing levels and overtime utilization. Through this regular monitor, I hope to assess and develop options with my institutions to best manage the operations of their facilities until staffing issues are relieved. Immediate impacts to institution operations are being reported to the Directorate on a day-by-day basis, and the Mission as a whole is providing a presentation on their status to the Department via COMPSTAT quarterly reporting.

Custody and Population Management

Facilities are overcrowded with thousands of inmates living in converted gymnasiums and program space. As of December 31, 2006, there were 2,381 inmates living in gymnasiums at the prisons under your jurisdiction.

14. You are responsible for some of the most violent inmates in the state. What strategies have you implemented to address this population? What changes should we expect to see in the next 12-36 months?

The Department has currently implemented strategies to manage disruptive and/or violent prone behavior, as well as to combat the influence and stranglehold that active prison/street gangs play upon otherwise orderly institution operations. The majority of offenders within our institutions desire to maintain a constructive program within the institution setting; however, there are both individual and group factions that effect disruption and violence upon other offenders, as well as the staff present to maintain their safety and security.

The establishment of sound operational procedures, well-trained staff, appropriate tools, and a functioning classification system are necessary to manage the potentially high violent offenders within the HSTHU prisons. Effective management and utilization of our ASUs and SHUs is essential to separate out violent prone offenders from the GP.

The CDCR and the HSTHU have also recently established a pilot program referred to as Behavior Management Unit (BMU) Program, which is being implemented as a third alternative to segregate our disruptive influences from our general population offenders. Offenders that have demonstrated violent prone behavior, or have been involved in repeated acts of institutional disruptions/riots, "active" gang type behavior, or who have received repetitive rules violations reports for disruptive behavior may be evaluated for participation in this new approach for managing offenders with behavioral problems. The HSTHU currently has pilot programs established at HDSP, SVSP, CCI and PBSP.

Offenders placed into a BMU are essentially maintained together in a general population assigned building and in normal cells; however, their privileges and their ability to possess personal property items are significantly restricted upon their initial placement into the program. Offenders assigned to a BMU are expected to participate in formal violence/anger management education programs such as Breaking Barriers and Cage Your Rage, and submitting to mandatory drug testing. Based upon each offender's level of participation in the program, they have the ability to earn their privileges back and return to a full GP setting. Offenders designated to participate in the BMU program will graduate through three phases of the program, with each phase providing greater privileges and program opportunities outside of their cells, with the final phase being returned to GP.

Offenders who successfully graduate from the program are ultimately released back to the GP setting; however, offenders that elect to not participate and modify their behavior will be evaluated for potential more restrictive housing within the SHU type setting. Preliminary data reported by the initial pilot institution, HDSP, has demonstrated effective results in reducing the participant's likelihood of repeating behavior patterns. Additionally, HDSP has reported that GP behavior has improved as well, based upon the offenders finding the BMU property restrictions being a significant force of motivation to abstain from violent prone activities.

During the past 18 months, the HSTHU has initiated an informal program at the PBSP's SHU, which has been entitled the "Short Corridor" Program. This program has been established to reduce or restrict the ability of identified high notoriety prison gang members from communicating and issuing instructions to other gang members throughout the department. Essentially, all of the most high notoriety gang leaders in the state are being housed within one small isolated corridor within PBSP's SHU. Logistically, this provides staff a more enhanced opportunity to review, monitor and decipher any communication originating from these individuals. Although there is no data or research component that is attached to this program, information has been coming forward from participating offenders that this type of program has the potential to break the backs of prison gangs.

I have recently been working in collaboration with the Department's Office of Correctional Safety and the Law Enforcement Liaison Unit, as well as designated Wardens throughout the state to develop strike teams that travel to a specific SHU or High Security Institution and conduct an in-depth search and investigation into gang activities and/or planned violence. We have completed two strike team efforts at both PBSP and at CCI in Tehachapi. Both of these efforts have caused significant impact in disrupting gang activities and assisting in validating active disruptive group members. These efforts and similar overt and covert operations are continuing to be planned.

I am also planning on further evaluating specific institutions where ongoing disruptive group violence has all but stagnated offender programs on specific yards. My initial assessments of these continued problem areas leaves me of the position that based almost entirely upon the behavior of specific disruptive groups, entire yards program(s) are being held hostage due to the need for continued lockdowns or modified programs. I will be exploring with the Directorate the possibility to further identify and separate out these groups for potential placement in management control units. If these active influences were placed on a similar yard, then the unaffected segments of the population would be able to return to full program. It will also be my intent to provide methods for such disruptive influences to earn their way back to a full general population setting.

As also indicated in previous responses, the HSTHU Mission has directed the seven institutions under its purview to establish self-help programs in the areas of Alternatives

to Violence and Incarcerated Veterans Programs. We have been working to re-establish vocational education programs at four institutions, where they had previously been abolished due to necessary budget cuts. The consolidation of the THU at KVSP will offer opportunities to those offenders who have made the decision to formally disassociate themselves from prison gangs and complete the de-briefing process. Additionally, establishment of the ETP at PBSP will offer programming for SHU inmates, who will be paroling directly into the community.

As we move forward, I will continue to review resource documents from other correctional organizations to determine if other programs exist or are being operated that could work effectively within our organization. As these are identified, the concepts will be shared with the various stakeholders within our organization to seek input and approval to move forward with development of additional programs to benefit our population.

15. *When there is a lockdown or modified program at a prison, the activities of some inmates are limited. What role have you played in reviewing situations such as this and in determining how and when the institution should return to full programming?*

At the present time, the CDCR utilizes the lockdown process as an effective tool to ensure offender and staff safety in response to offender behaviors/actions that threaten institution security. It is important to clarify that the terms "lockdown" and "modified program," which, have at times, been used inconsistently. These inconsistencies have created confusion regarding reporting requirements. In an effort to ensure consistent state-wide reporting requirements, lockdown and modified program have been defined and both actions are required to be reported in the weekly Program Status Report (PSR):

- Normal Program: The ability of offenders to participate in all assignments and privileges according to departmental and institutional procedures governing those activities.
- Modified Program: The suspension of any operation, procedure, service or function to prevent, contain, or control a disturbance. This will typically only encompass a segment of the population.
- Lockdown: The restriction of all offenders to their cells/dormitory beds encompassing no less than an entire facility.

As the Associate Director, I will receive notification from the high security institutions for any modified program or lockdown lasting more than 24 hours. In addition, I will be notified when there is a change in program, lasting more than 24 hours.

This notification is completed via the PSR that is generated at the institution level and faxed to the Associate Director's Office for review.

A complete reporting of a modified program or lockdown is submitted to me for evaluation on a daily/weekly basis, and until such time that circumstance provide for the safe return to a full program. A PSR contains several components that are reviewed and monitored by the Associate Director: Part A, which is the initial notification and is submitted within 24 hours of the precipitating incident; Part B, which will identify the daily plan of operations for the effected yard/offenders; Part C, which provides a weekly recap of efforts and progress toward resolving/closing the issues that created the need for the modified program; Part D, which is a mission group role up of all of the institutions that may be on modified program during a given week; and Part E, which is a 60 day evaluation of a modified program and provides for additional strategies that may be implemented to bring resolution to modified program.

I conduct telephone conference calls with the Warden and his staff during protracted modified programs and assist in evaluating information available that may be leading to the need for the extended modified program/lockdown. Where appropriate I will offer insight and guidance in moving forward with investigations, assist in the transfer of offenders, as well as functioning as liaison with the Office of Correctional Safety for conducting independent threat assessments. As may be appropriate, I will direct Wardens on moving forward with de-escalation efforts, when contradictory indicators no longer exist.

16. *The administrative segregation housing units are among the most costly units operated by the department. Please describe your role in reviewing who occupies these beds and how long they stay there.*

On a weekly basis, the population management unit produces reports that reflect numerical information related to ASU filled/vacant beds and staffed capacity. I review these reports and discuss the identified issues with the Wardens of the impacted institutions.

During a weekly "Beds Meeting" at headquarters, all departments involved with offender population management work collaboratively in assessing statewide population issues. Through these interactions focus is placed on various options for movement of specific types of populations. I provide a copy of the department's weekly ASU overcrowding and single-cell reports to each of my assigned Wardens with direction to focus on reducing the need for single-cell utilization and ASU overflow.

Each of the HSTHU Wardens has a working knowledge of the factors that lead to ASU overflow, and they maintain local data processing systems to monitor and manage their population within ASU. The institution's investigative services unit works proactively

with local District Attorney's Offices to remove barriers in the prosecution of cases housed within ASU. The Wardens all have systems in place to monitor and track disciplinary matters and active investigations that may have impact on the duration of placement an offender may have in ASU.

I have provided direction to my staff during the completion of Institutional Operational Reviews to also have an Administrative Segregation Bed Utilization Review be conducted simultaneously. This review allows headquarters and field staff to conduct a review of between 60 – 100 ASU cases to determine if all appropriate rules are being followed related to Reason for Placement, Administrative Review, Due Process, Initial Classification Committee Review, and Classification Services Representative extension or endorsement. Once the audit is complete, the institution is required to complete a Corrective Action Plan (CAP) to resolve the identified deficiencies. This CAP is tracked by HQ staff and follow-up is completed as necessary.

I have been working with the high security institutions to develop a TPU in GP that can be utilized for SNY endorsed offenders who are pending transfer to an SNY facility. This allows the offenders to participate in a modified GP program and not occupy the more staff costly ASU beds. This program is currently in operation at five of the high security institutions and has significantly assisted in reducing the need for ASU Overflow. Additionally, this program has been viewed favorably by the courts relative to the CDCR's Mental Health litigation in the *Coleman* case. A large number of our SNY offenders are also patients in the Mental Health Care Delivery System, and the use of TPU provides greater opportunity for care and treatment.

The progress made at each institution in managing their ASU population is submitted in a monthly COMPSTAT Report, and then presented on a quarterly basis in person by each of the HSTHU wardens to the Department's Executive Management Team.

The growth of prison gangs has been described as affecting every part of custody operations.

17. How is the transitional housing program at Pelican Bay, in which you encourage inmates to renounce gang ties managed? What are the outcomes of this program? What role do you play in evaluating or replicating programs such as this?

The THU Program is a process for known validated gang members to disassociate their ties from the gang(s) they once belonged to, and then to safely be evaluated for their ultimate transition back into a GP setting. This process is necessary to protect both the safety of the participating offenders, as well as to protect the GP inmates where these gang-dropouts will be transferred and housed. There are two phases to the debrief process and they are designed to review and monitor the sincerity of each individual

and ensure the offender participating in the process is not a threat to staff or any other offenders and has truly separated themselves from all prison gang activity. We cannot eliminate a possible threat that goes undetected by staff; however, this process helps to minimize the chance of these threats being carried out.

Phase I is considered the debriefing process designed to obtain verifiable information from the subject, which adversely impacts the gang so the gang will no longer accept the subject as either a member or associate. During this phase, the offender will typically remain in the SHU. A successful debriefing provides staff with information about the gang's structure, activities and affiliates. This initial phase of the debriefing program is beneficial to both staff and offenders alike. When a prison gang member decides to voluntarily disassociate himself from a prison gang, they first contact staff. Staff from the Institutional Gang Investigator's Unit will interview the offender requesting to disassociate from his prison gang.

Phase I also provides an opportunity for the offender to make a first formal step towards moving away from what in most cases has been a lifetime of illegal gang activity. Therefore, the success of the first phase of the debrief program can be measured first by giving an offender a method of breaking away from the cycle of gang violence and activity. If the offender who chooses to disassociate himself from the prison gang has been active and in good standing with his prison gang, usually he is able to provide staff with good real time intelligence regarding their gang's activities.

Phase II of the process allows for a period of staff observation and a time for the offender to adjust back into a group yard setting. This observation/adjustment helps to ensure that an offender will be able to program successfully with other offenders of all races and ethnic groups as well as offenders who are disassociating themselves from other prison gangs as well. At this stage of the process, the offender is moved into either the THU or Integrated Yard Program (IYP).

The second part of the debriefing program is also known as the observation phase which allows staff to observe the offender interact with other offenders in a tightly controlled setting. Offenders who successfully complete both phases of the debrief program will have safety concerns from their former gang; therefore, they will not be able to program in a GP setting and may require housing on a SNY. For the prison gang member, housing on an SNY can be challenging, especially if they have been housed in the SHU for several years.

GOAL OF THE THU PBSP:

The goal of the 14-week THU/Conflict Anger Lifelong Management (CALM) Program is to provide offenders with life skills training for their transition into a GP setting.

The THU student population consists of long-term SHU inmates who are completing the debriefing process. Besides academic and physical education components, the program includes personal growth development training such as: stress and anger management; communications and conflict resolution skills; cognitive restructuring (*Breaking Barriers*); victims awareness; parenting; addictive behavior and substance abuse; health; and group discussion. A voluntary Alcoholics Anonymous group is held Thursday nights. A religious group meets on Sundays.

HISTORY OF THE THU:

The THU/CALM Program is in its eleventh year with 370 offenders who have successfully graduated by completing the program. Of the 370 graduates, 117 have passed the General Education Development (GED); 5 graduates work as education tutors in paid positions; 6 graduates work in paid positions for their housing unit dining hall; and 2 graduates work in paid position for GED Express.

THU SUCCESS DATA TO DATE:

Of the 389 offenders entering the THU, 370, or 95 percent have graduated since the program began in December 1996, as illustrated below:

- 139 of the 370 THU graduates (38%) had either a GED or high school diploma upon entering the program; 60 were ESL/ABE 1/2 level (16%), and 171 were ABE 3/GED level (46%).
- 117 GED certificates have been granted since the program began. 117 of the 162 THU inmates (72%), who took the test, passed.
- 258 of the 370 graduates (69%) showed a minimum of one Grade Point Level (GPL) improvement in overall academic performance, or pre-class tested at least 12.0 GPL overall.
- 21 have completed a total of 36 college courses

In addition to the THU program at PBSP, COR is operating an IYP, a program that is similar to the THU.

GOAL OF THE IYP at CSP CORCORAN (COR):

Completion of the IYP provides a transitional period, for prison gang members who choose to formally renounce their involvement in gang activities, to reintegrate successfully back into a general population setting.

While participating in the IYP, the debriefing offender is required to participate in group yard. The group yard is comprised of up to 25 offenders whom all have completed

Phase I of the debrief process. Participation in group yard prior to release to a SNY allows the offenders from different prison gangs to begin to associate with one another in a small controlled setting, prior to being released to a much larger SNY.

Successes of the IYP:

- The program gives a prison gang member a way out of the gang lifestyle.
- Staff gains critical intelligence about the inner-workings of a prison gang.
- The intelligence gained by staff is used to suppress gang activity, thereby making the prisons and our communities safer.
- The IYP provides a controlled setting of interaction between different gang factions, which allows staff to observe said offenders adjustment to a non-gang lifestyle. It also allows the offenders to acclimate themselves to the presence of other offenders, and more importantly to offenders who in some cases were their sworn enemies

As the Associate Director of the HSTHU, I am in the process of replicating and relocating the THU at PBSP to an alternate location at KVSP. The intent is to free up SHU housing at PBSP and to ultimately consolidate the program with COR's IYP program. This change is currently in process; however, I and my staff are currently working through an impediment in that no formal policy or regulations were ever promulgated in relation to PBSP's THU Program.

It is my intent during the next 12-18 months to further evaluate the THU program, as well as similar programs used in other states, in an effort to investigate the feasibility of initiating a parallel type of program for offenders housed within the GP who would like to disassociate themselves with gang involvement prior to their behavior resulting in additional criminal/violent activity that would ultimately place them into a SHU.

18. Security housing units house the state's most violent inmates. What strategies have you employed to make it safe for these inmates to transition back to general population units? What programming or re-entry preparation occurs for an inmate who is unable to transfer to general population prior to his release to the community?

Offenders that are assigned to a SHU received their housing designation based upon being issued either an indeterminate SHU term or a determinate SHU term. Normally indeterminate SHU terms are associated with individuals who glorify the gang lifestyle and have been validated as an active gang member. Offenders with determinate SHU terms normally have been designated for SHU based upon a specific act of violence and/or immediate threat to the safety of others or the security of the institution.

Offenders that are assigned to a SHU, essentially live within their cells between 22-23 hours a day based upon the extreme threat they pose to others when permitted to program with other offenders and/or Department staff. Therefore the majority of activities to assist this population have been limited to activities that can be accomplished within their cells. The CDCR currently has two active programs that provide transitional education opportunities for this segment of the population, the first program is the THU, and the second is the BMU Program. In addition, during the preceding ten months, the HSTHU mission-based staff has taken the lead in establishing a work force team to develop a pilot program, the ETP within the SHU at PBSP, which will provide active interfaced computer education and pre-release programs to identified offenders in the safety of their assigned cells.

TRANSITIONAL HOUSING PROGRAM (THU)

The THU, as I previously addressed in question 17, is a program for offenders that demonstrate a personal choice or desire to drop out of gangs within the institutions. These offenders participate in an active physical education component, work toward passing the GED and can elect to participate in Narcotics Anonymous (NA) or Alcoholics Anonymous (AA) programs. The academic component utilizes the "Plato" software on offender computers to provide both computer skills and academic skills to program participants. Some of the program graduates work as clerks and tutors for the program and as clerks for the distance-learning program. This has allowed the graduates to provide additional positive peer support for the program. Once the offenders pass the GED they are encouraged to enroll in college. There are currently ten THU participants or graduates enrolled in college. Five other THU graduates were participating in college but did not participate this semester because they are expected to be transferred.

BEHAVIOR MODIFICATION UNIT (BMU)

The second program is the BMU, a pilot program, which provides alternative GP housing for those offenders who do not meet criteria for ASU placement (e.g., deemed program failures, participate in organized criminal/gang activity, or refuse to double cell). Placement into a BMU is not an inmate elective process, but rather is determined by a classification committee. Offenders assigned to a BMU may be placed there as an option in lieu of a SHU placement, as program failures, or as a step down program coming out of a SHU. Offenders in the program are assigned an Individual Treatment Plan (ITP), which consist of workshops and self-help groups. Through successful participation with the ITP, offenders are eligible for graduated program opportunities. Anticipated goals of the program are to realize success in modifying disruptive behavior, providing a calming influence upon the offender population, and achieving cost savings by reducing incidents, lockdowns, and ASU overflow beds. A long-term goal of this program is recidivism reduction.

The approach used is not treatment oriented; rather it is based on life skills acquisition. The life skills curriculum is based upon constructively motivated changes. Offenders participate in group sessions and in-cell study on conflict, anger, life-long management, AA and NA.

To date, six BMU's (Phases 1 & 2) are operational, primarily at level IV prisons (HDSP, CCI, PBSP, SVSP, CAL, and SATF). The Department has identified the need to expand the BMU program beyond the six initial pilots, to include levels II and III prisons. This expansion has the potential to provide a much needed tool for prison gang interdiction. The CDCR would like to activate Phase 3 & 4 BMU's to include CTF, CEN, COR, ISP, KVSP, PVSP, SQ, VSPW.

ESTELLE TRANSITIONAL PROGRAM (ETP)

Currently, PBSP has implemented an in-cell computer based pilot program. This program is designed to assist offenders paroling from the SHU with their re-integration into the community. The ETP is an in-cell pre-release program for offenders being released from the SHU program directly to the community.

The ETP is based on the Texas Department of Justice (TDJ) Serious and Violent Offender Reentry Initiative program (SVORI). The SVORI program was established in Texas in May 2004, with an initial service to 25 offenders. In October 2004, the first of those SVORI participants began to return to their communities. As of January 1, 2006, there have been a total of 77 offenders that have completed the in custody phase of the program and have been returned to the community. Of those 77 program participants, 54 are employed, in an educational program, or are actively seeking employment. These are significant numbers of offenders that would otherwise have re-offended and returned to the system. In discussion with the SVORI staff in Texas, there is a positive impact on the offenders' ability to remain a productive citizen. The trend is towards a reduction of recidivism in Texas. Because of the relatively new nature of the TDJ SVORI program there is a limited amount of statistical data to form a comprehensive evidence base. However, the available data indicates that TDJ is showing a 90 percent success rate for the program.

In 2005-2006, 91 offenders paroled from the PBSP SHU; of these, only 40 offenders or 44 percent participated in the re-entry education and training programs. Based on the offenders' security level, CDCR is not able to provide the standard re-entry materials in the classroom setting to these offenders. This program relies solely on voluntary participation and is not a requirement for the SHU program.

During the preceding ten months, selected staff from the department's Enterprise Information System, the OCE, and the HSTHU have been enjoined in a collaborative effort to develop the ETP pilot project that will provide computer based pre-release and

academic education to offenders assigned to the SHU at PBSP. By June 30, 2007, PBSP will conduct an ETP proof of concept. The proof of concept will serve three purposes: 1) Prove the technical feasibility and true cost of providing educational curriculum to isolated SHU inmates in their individual cells, to a voluntary group of offenders; 2) Identify the types of pre-release education curriculum that will work best in the ETP environment; and 3) Capture information required to support a long term, broadened implementation of ETP; which includes identifying appropriate long term performance metrics, success criteria, and costs for the program. Assuming a successful proof of concept, this information will be used to submit a Special Project Report, requesting authorization for potential program expansion.

The CDCR's long term goal is to implement the ETP statewide, to help reduce recidivism rates among adult offenders who have a propensity for violent anti-social behavior and would otherwise re-enter society with no pre-release training and would, thereby, have a greater likelihood of committing a similar crime and returning to prison. The replication and success of this program will help to re-establish CDCR as the national correctional leader, in line with the Governor's stated goal. This objective also allows CDCR to conform with its Strategic Plan, Goal 5 - Crime Prevention and Safety.

19. *Inmate programming is often more limited at high security facilities because different populations of inmates cannot safely program with each other. What are you doing to address this? What progress, if any, can we expect to see in the short and long term?*

The high security institution programs, much like the lower security institution programs, operate on a premise that the offenders are expected to get along and manage within integrated work and education program settings. The Inmate Assignment Lieutenant assigns inmates in a balanced approach, consistent with the institutions demographics to academic and vocational education programs, as well as support services and prison industries assignments. However, it is understood that circumstances exist that cause yard programs to be modified during times of disruption and/or violence between different segments of the inmate population.

Within the HSTHU mission-based institutions, we make an effort to balance a combination of violence control plans, gang interdiction strategies, modified programs as necessary and expanded program opportunities with various modalities of providing the curriculum to the student offender population.

The DAI has worked in a cooperative effort with the OCE to develop an AEDM, which expands educational opportunities to the inmate population and provides a method to bring education to the housing units when facilities are on lockdowns and/or modified programs for a protracted period of time. The AEDM allows for inmates to attend part-time work programs and part-time education programs concurrently. This effort also

provides an opportunity that allows for an instructor to provide education to the inmate population within their dayrooms and cells. It is through this method that continuity to education programs can be maintained, with identified segments of the population on a lockdown or modified program.

Additionally, as a companion education tool, the CDCR contracts for use of the Corrections Learning Network (CLN) at the institutions, which provides supplemental training education via the institution's existing closed circuit television system. The CLN system can be used as an adjunct to existing academic programs, as well as a method of providing basic and refresher education to student offenders desiring to earn their GED.

As defined within the response in question #18, the Department and HSTHU mission has implemented a pilot program, entitled the BMU Program. BMU's have been established to separate out potentially disruptive individuals and/or groups and provide them additional education and violence reduction training within the GP setting. The CDCR has recently implemented the BMU, which is a program designed to target the offenders who are chronic program failures that continue to get involved in violence. This program was developed based on several evidenced based best practices programs being utilized in prisons across the country. Many of the offenders in the BMU are street gang members who have to earn their way back to a GP setting through good behavior.

Also as previously identified, one of the more promising programs to target inmates who have been segregated from the GP due to demonstrated violent behavior is the ETP. This program was developed for offenders housed within the SHU and PSU to assist with their transition back to the GP and ultimately release to parole. Inmates housed in SHU and PSU will have the opportunity to utilize a computer-based program, where the student offenders may interact with instructors through the use of closed-circuit technology without leaving their cell. Currently, the HSTHU mission is operating this program as a pilot at PBSP.

The CDCR has also recently allocated 18 additional vocational education programs to provide additional classroom experience to four of the HSTHU institutions. As previously identified, the programs are in various stages of implementation at the identified facilities, and with the assistance of OCE and recidivism reduction funds available within AB 900, I hope to have the balance of the programs operational prior to the conclusion of the first quarter of Fiscal Year 07/08.

As a further means of attempting to deescalate the impact of gang influence and violence that affects program opportunities within the HSTHU mission, it is my intent during the next 12-18 months to further evaluate local and national gang disassociation programs similar to the THU program in operation at PBSP. I would like to establish a similar program in the level IV GP for inmates would like to disassociate themselves

with gang involvement prior to their behavior elevating to the point of further criminal/violent activity that would ultimately place them into a SHU.

20. *What responsibility do you have for population management decisions? Please provide examples of the types of decisions you have delegated to the wardens and some you have elevated to the Director of Adult Institutions?*

The level of population overcrowding has dramatically impacted the CDCR's and the HSTHU mission institution's ability to implement inmate programming, including recreational activities. California has the largest prison population of any state in the nation, with just over 170,000 incarcerated offenders. Many of the HSTHU institutions are operating at or near 200% of design capacity, requiring the use of nontraditional beds within structures designed as gymnasiums and on building dayroom floors. The increased population in the high security prisons has created challenges to inmate programs and the management of inmate behavior.

I view population management and the current overcrowding issues affecting the CDCR as one of our key priorities in maintaining safe and secure institutions. Both the Director and the Secretary have communicated that addressing the overcrowding issue is one of our most significant goals.

The Wardens assigned to the HSTHU mission and I frequently have discussions regarding their population levels, as well as the classification type of offenders housed within their institutions. During these conversations, we discuss overcrowding issues, unbudgeted use of ASU beds, single/double-cell procedures, average daily population and staffed capacity maintenance, classifying and transferring inmates to Community Correctional Facilities (CCF), and managing inmates within the least restrictive level of facility. Most recently, we have had enhanced dialogue related to the continued increase of SNY offenders, where our institutions are continuing to experience a significant backlog in their ability to transfer these inmates to more appropriate (and less costly) cells/beds.

Based upon my discussion with the mission's Wardens and interaction with the Population Management Unit within CSU, we collaborate on identifying locations to establish additional SNY programs within the various custody levels, and using proactive measures to retain these non-threatening inmates out of costly ASU housing. Through these discussions and our mission's interaction with the field, we have developed TPUs at several of the HSTHU institutions. These units provide for safe housing and staffing at the G{ level, saving the more secure costly housing for true threats to the institution's security.

Based upon population activity, Wardens may be directed to activate or deactivate various types of cells or programs within the facility. They are delegated authority,

where possible, to select the specific site within their institution to best effect this action. During issues of expressed conflict by Wardens, their issues will be brought forward to the Directorate when appropriate.

I attend a regular DAI Population and Beds Management Meeting on a weekly basis, where I and other key Division and Department Heads evaluate population trends and activities, as well as formulate strategies for the effective utilization of cell/bed space within our mission and the Department. In preparation for this meeting, the CSU provides a series of time relevant reports, that provide information such as institution and program utilization, ASU/SHU vacancies, single-cell utilization, CCF vacancies, SAP, Minimum Facility Support, California Out of State Correctional Facilities and SNY availabilities and vacancies, activations and deactivations, population shifts, and intake projections. From these reports and interaction with our Wardens and their management teams, we develop a weekly management plan for resolving population issues and avoiding potential crisis overcrowding at any one institution.

In the event that critical population management decisions must be made, such as changing the custody level and/or the mission of a specific institution, a recommendation for action is normally formulated between the entities present at the meeting and provided to the Directorate for consideration and authorization. Based upon significant shifts in statewide population management strategies, the Administration may provide direction and vision to address the current State needs. Such direction is currently taking place with the recent passage of AB 900, where the Agency will be creating additional beds to reduce the effects of current overcrowding in the State, and alleviate our current dependency on nontraditional beds.

As a further example of interactive process that take place in the ongoing population assessment process, I will be forwarding a recommendation to the Director for further consideration of the CDCR's tentative plans to construct 400 additional Level II beds at SVSP. The Warden and I are currently concerned about the ability of the institution to recruit and retain sufficient staff numbers to supervise these additional 400 inmates, when historically SVSP has one of the highest vacancy rates in the state. Concurrent with this recommendation, the Warden and I are also attempting to effect a temporary redirection of a number of their existing nontraditional beds to compensate for current existing shortages in staff.

21. *How do you monitor or assess day-to-day operational issues, such as the timely processing of mail, visiting, yard time, canteen, phone calls, inmate appeals, levels of violence, etc.? Are there examples of situations where you stepped in to make a change?*

As the Associate Director for the HSTHU, I conduct a daily analysis of all significant occurrences that have transpired during the preceding 24 hours within my assigned

institutions. Each of the HSTHU Wardens submit a Daily Activity Report that identifies significant occurrences and/or unusual events. I have issued specific directions to each of my Wardens that identify the type of issues that I want to be notified of personally via telephone on a 24 hour a day basis. Additionally, I normally contact each of my assigned institutions every 24-48 hours to conduct a general discussion with the Wardens.

I manage daily communication with the field regarding activities and assignments via email and intranet communications, in which policy and procedure and operational issues are discussed and acted upon. I am also able to effect ongoing review of daily operational concerns via a monthly/quarterly mission-based COMPSTAT report, which gathers and provides a standardized method of the oversight for significant operational areas within the institutions, such as population management, staffing levels, budgetary control, program participation, inmate appeals, employee grievances, significant incidents, deaths, escapes, lockdowns, employee discipline, etc.

In analyzing the data contained within the COMPSTAT report, I review inmate appeal types and numbers for program, property, mail, health care, visiting, living conditions, and other program activities that have direct impact on the inmate population. In addition to appeals, I review assignment and program activity availability, as well as the use of self-help programs for the offender population. I review daily Incident Report data that is provided within the COMPSTAT report also, but my headquarters' team and I also review each actual submitted Incident Report and Use of Force occurrence on a daily basis as the documents are faxed into my attention.

I participate in monthly meetings with the CDCR appeals coordinator to review specific appeal issued occurring within the HSTHU, and review these in relation to the other mission-based divisions. I receive weekly population trend analysis reports, which provide me a day-to-day picture on each institutions population trends. I disseminate this information to my Wardens with analysis and direction when appropriate.

In reviewing these reports, I frequently will interact with a Warden if I find an area of concern, such as excessive overdue appeals. In such instances, I will provide options for resolution, including a provision for external intervention or training.

I interact with inmates, their family members, and Inmate Family Counsel Groups via telephone, internet communication, mail correspondence, and participation in joint meetings.

My headquarters staff and I participate in operational assessments of each of the institutions, which evaluate efficiencies and provides an overall assessment for the institution. In addition, there are several other regularly scheduled reviews/audits that occur at each institution with summary reports being submitted to me for follow-up

action as appropriate. Among these reviews are In-Cell Assault Reviews, Modified Program Status Reports, Lethal Electrified Fence Review, Accounting/Trust Audits, Litigation Special Master Reviews, Staff Training Assessments, etc. As I receive and review these reports, my headquarters' staff and I work with our institutions in developing corrective action plans, and then tracking our institutions progress toward attaining substantial compliance where necessary.

During an instance that occurred earlier this year, one of the HSTHU institutions initiated a lockdown and requested State of Emergency due to a significant assault on staff. The Warden appropriately effected notification of the occurrence; and the staff did well in isolating, containing and controlling the disruption. However, after approximately two weeks and discussions with the Warden in reviewing the totality of the incident, I believed the need for a State of Emergency affecting the entire population no longer existed. After additional dialogue, I directed the Warden to begin a de-escalation of the occurrence for the non-affected yards at the institution. Subsequent to this action, I worked in concert with the Warden to conduct a threat assessment and to eventually return the impacted yard to a normal program.

Adult Programs and Pre-Release

22. *What responsibility, if any, do you have for the creation or elimination of individual academic, vocational self-help, and pre-release programs for inmates at your institutions? Please provide examples of specific times when you have been involved in decisions such as this.*

Within the institutions, the Wardens and their assigned Principals are delegated the primary responsibility for the internal development of academic and vocational education programs, including prerelease training. In addition, Wardens and their administrative teams are responsible for the development of identified self-help programs sufficient to meet the needs of the offender population. I work with my assigned Wardens and encourage them to maintain an open dialogue and work in a cooperative spirit with their education supervisor and instructional personnel. I also expect Wardens to make a concerted effort to ensure that all assigned offenders are attending their programs and to monitor the status of the programs on a daily basis.

I have a fundamental responsibility to listen to my assigned Wardens, and where possible assist them in the development of new education and self-help programs as possible within my area of responsibility. I communicate and work in cooperation with the OCE, within DEVOP, at headquarters to evaluate the ongoing needs of the institutions. During the preceding six months, I have been working with the Director of DEVOP, Mr. Frank Russell to develop and implement 18 new vocational education programs within four of the HSTHU institutions. Although we have experienced setbacks due to a difficulty in establishing necessary custody supervision support for

these programs, we are continuing to establish these new programs within the identified institutions. Additionally, my staff and I have been working closely with OCE in the development of a new education program entitled, the ETP at PBSP, which is a computer based pilot program that has initiated operation within the SHU at PBSP.

My role is to facilitate bringing viable programs to the HSTHU institutions, engage the Wardens to resolve issues and provide oversight to maximize educational opportunities for the HSTHU offenders and to facilitate resolution of identified barriers. Education's role is to identify appropriate programs and work collaboratively with my staff and the institutions to effectively implement those programs. I also communicate program priorities and requests to the Chief Deputy Secretary as needed for assistance and support when working on cross divisional operational and program issues.

I have also taken a direct role in requesting that each of my assigned Wardens establish and implement a new self-help program during this preceding year. Each of the HSTHU institutions has either established an AVP or on schedule to implement the program in the near future. Based upon our needs, the Chairperson for AVP in California has been working with me in attempting to recruit a larger volunteer base to assist her group's efforts. Currently, CCI, SVSP and HDSP offer AVP sponsored through this group.

I have been participating in meetings and discussions with the Chief Deputy Secretary, Adult Programs, Ms. Marisela Montes, and DEVOP's Director Mr. Frank Russell to identify additional viable education programs and self-help group activities, as well as to identify alternate methods of resolving barriers that may have been incurred during the process.

23. *What specific progress have the institutions under your jurisdiction made in the areas of adult programming and pre-release planning?*

In May 2004, the Division of Adult Parole Operations (DAPO) instituted the Parole Planning and Placement (PPP) program, aimed specifically at preparing offenders for their ultimate reintegration into the community. The goal and purpose of this program is to obtain and utilize pertinent information about offenders in order to develop and implement effective and specific reentry plans that maximize a parolee's opportunity to successfully reenter society. The PPP program provides proactive involvement within the institutional setting in establishing and solidifying parole planning for inmates prior to their release.

The PPP program is currently operated at all California State Prisons, including those within the HSTHU Mission. The PPP program staff complete assessments on all inmates prior to parole. The only exceptions to this rule are those inmates with the following exclusionary criteria; (1) inmates pending deportation with an active United States Immigration hold, (2) civil narcotic addicts, (3) inmates receiving pre-release

services through the Mental Health Services Continuum Program, and (4) inmates participating in the Transitional Case Management Program (TCMP) for HIV/AIDS.

The PPP program consists of a Parole Agent II Specialist, and a Parole Services Associate. Both positions are physically located in each prison. The PPP staff review the inmate's Central File, and conduct a face-to-face interview to gather pertinent information related to his needs and or barriers that may exist upon release. This information is then reviewed and assessed by a contracted District Social Worker (DSW). The DSW uses existing DAPO parolee programs and links newly released parolees to other appropriate community resources.

Finally, with the expanded efforts in parole planning and reentry services, along with increased participation in vocation and education programs, the offender stands a much greater chance of becoming a productive member of society.

Effective communication and full utilization of the PPP program is a continued process within the CDCR. I recently had the project coordinators from DAPO provide an overview and training program for all of the HSTHU Wardens during quarterly mission-based meeting in December 2006.

In addition, each institution offers to the offenders a pre-release class. This pre-release course falls under the OCE in DEVOP. The pre-release class is designed to help the offender in his/her transition back to the community. The curriculum includes community resources, decision making, job preparation and career exploration.

24. How have you coordinated with the Parole Agent II at each institution to prepare inmates within the final months of their release? What percentage of inmates is being reached by this process at the institutions under your jurisdiction?

As previously addressed, I have brought together members of the DAPO PPP coordination team to provide an overview of operation and provide direction to the HSTHU Wardens during a quarterly mission-based meeting in December 2006. The Wardens understand their role in providing access for DAPO to all eligible inmates, and including local PPP staff with communication regarding daily operations. My Wardens were encouraged to meet individually with their Parole Agent II, include them in the weekly Wardens Executive Staff briefings and monitor the work being completed within their units.

As I tour institutions within the HSTHU, I will endeavor to meet with the staff assigned to the PPP team at the institutions. If there are any issues or barriers that may be uncovered as a result of my discussions, I will ensure that the Warden is apprised and that efforts are made to bring resolution to the issue(s).

The main function of the PPP is to provide offenders with as much pertinent preparation information as possible prior to their release. A case plan is worked up for each inmate 240 days from their pending release, based on a central file review, completion of a questionnaire and an informational interview. Once this case plan is finalized, an exit interview is scheduled with the inmate. This case plan typically includes information on housing resources, education needs/assistance, locations to obtain GED, locations to contact for employment assistance, locations of optional programs in the area for drug/substance abuse issues and anger management issues, locations of trade schools in the area and locations where medical/dental/vision assistance is available to them.

Based on case factors the parole agent in the PPP will determine whether or not to refer the parolee/inmate to the PPP DSW. In DAPO each parole district is assigned a DSW that is housed within the parole unit/complex, the responsibilities of the DSW include the development and utilization of community resources for the parolee population. If the parolee/inmate has been referred by the PPP parole agent to the DSW, it is the responsibility of the DSW to make the appropriate referral/placement into the program, based on the identified needs of the parolee in the assessment.

The Prison Industry Authority (PIA) offers work opportunities for inmates at five of the seven institutions under your jurisdiction.

25. PIA is a separate entity within the department. How have you coordinated with its staff to create jobs and job training for inmates in your institutions? What role, if any, do you play in determining the size and types of programs at each institution?

The PIA has satellite factories located within institutions throughout the CDCR, and currently PIA has industry programs located within five of the seven HSTHU institutions. Although PIA is a separate entity within the State, I have developed a strong working relationship with Mr. Chuck Pattillo, who is the General Manager of PIA, as well as his staff at several locations. I have conducted tours of several PIA Factories in Sacramento and throughout the Department, and as a prior Warden, I established a PIA textile factory at Centinela State Prison during my tenure.

As the high security institutions experience semi frequent occurrences of Modified Programs or Lockdowns, PIA is somewhat reluctant to establish programs within the secured perimeter of a level IV facility. However, the HSTHU institutions currently maintain the following active PIA programs at their institutions:

- The CCI at Tehachapi has a single PIA Textile Clothing Factory.
- CSP COR has a "Century 2000" PIA Modular Office Systems Manufacturing Facility; a PIA Laundry, PIA Dairy/Milk Processing; PIA Farming/Crop; and a PIA Wood Works Distribution Center.

- PBSP has a PIA Laundry and a PIA Optical Lab.
- CSP SAC has a PIA Laundry and PIA Warehouse Program
- SVSP has a PIA Dairy

As the Associate Director I have the authority to work with PIA management and develop programs suitable for operation within the HSTHU institutions. Although I have not currently considered development of additional programs within the level IV facilities in my mission, I have expressed a desire to consider placement within a level III SNY program. It is my intent to further explore this possibility during the next 12-18 months.

In the seven prisons you are responsible for managing, your internal statistical report for the fourth quarter of 2006 listed about 600 substance abuse treatment slots at three institutions. Overall, they were 73 percent occupied. Kern Valley registered only 43 percent occupancy. Four prisons under your jurisdiction had no substance abuse slots.

26. What responsibility do you have for initiating or monitoring substance abuse treatment programs at the prisons under your jurisdiction? How do you coordinate these efforts with the new Division of Addiction and Recovery Services? Who assesses the needs of inmates and decides which should be admitted to the limited spaces? What, if any, is your role in that process?

I have a direct role in evaluating and providing recommendations for the potential implementation of Substance Abuse Programs (SAP) within the HSTHU institutions. I monitor bed vacancies at the prisons under my jurisdiction. One of the areas discussed in the weekly beds meeting are the status of SAP beds, as to which programs are experiencing difficulty in maintain sufficient numbers of qualified offenders. Based upon the higher level of violence and occurrences that lead to modified programs, the Division of Addiction and Recovery Services (DARS) is somewhat reluctant to provide this time intensive program within level IV institutions.

In my discussions with representatives of DARS during population management meetings, I have been informed that DARS utilizes a "best practices" approach in selecting sites for SAP beds. DARS looks at a number of factors when considering institutions for consideration of a SAP. These criteria include the institution's ability to structurally have a SAP in considering land space and custodial issues; the type, level and average length of sentence of most inmates at the institution; the probably issues related to satisfying program requirements (20 hours of treatment per week) if housed at specific sites; the institution's staffing issues as it relates to custody and treatment staff; and the impact that this would have on programming; and the institution's receptiveness to having a SAP.

The needs of the inmate population are assessed during classification committees and the committee makes decisions regarding the appropriate program for the inmate. Criteria for placement in the SAP is outlined in the California Code of Regulations, Title 15, Section 3040.1. If a program at a particular institution seems to be struggling to remain full, I will interact with the Warden to determine what the relevant issues are, his recommendations for correction, and I will provide guidance, as appropriate. Most recently I have been working closely with the Warden and management team at KVSP to maintain sufficient active numbers of qualified offenders within their SAP Program.

As of April 30, 2007, the HSTHU group increased its percentage of SAP participants from the previous quarter of about 75 percent occupancy to 95 percent active participation as noted below:

CCI Level II	Capacity: 175	Filled: 173 (98.9%)
COR Level I	Capacity: 190	Filled: 187 (98.4%)
KVSP Level IV	Capacity: 256	Filled: 226 (88.3%)

It should be noted that the KVSP SAP should fill up in late May/early June as the SAP at CSP Los Angeles County (LAC) is closed and the Level IV inmates are being transferred to KVSP.

Medical and Mental Health Care

The entire prison health care system is under federal receivership, and a federal monitor oversees aspects of the mental health system.

27. What responsibility do you have for implementing directives of the health care receiver? Who do you coordinate with to accomplish this?

The Federal Receivership was established by U.S. District Court Judge Thelton E. Henderson as the result of a 2001 class action law suit (*Plata v. Schwarzenegger*) brought against the State of California over the quality of medical care in the state's 33-prison system. The court found that the care was a violation of the Eighth Amendment of the U.S. Constitution, which forbids cruel and unusual punishment of the incarcerated. The state settled the suit in 2002, agreeing to a range of remedies that would bring prison medical care in line with constitutional standards. However, the state failed to comply with the court's direction, and Judge Henderson ruled in June 2005 to establish a Receivership.

I have conducted multiple tours with the court ordered Federal Receiver, Mr. Robert Sillen at several of the HSTHU institutions. I have reviewed the court order and understand that he has legal authority to govern the health care services for the inmate offender population within the CDCR. I have developed a cooperative

relationship with the receiver, and I listen to information and/or direction that he provides. During instances where the receiver has made decisions directing Wardens to activate additional positions, programs, and/or activities that impact fiscal resources, I notify my chain of command via the Directorate and comply with any legal instruction issued by the receiver.

As we together move through a process of improving the CDCR's offender health care system, I work collaboratively with the receiver and his designated staff, as well as with the Division of Correctional Health Care Services, and the individually impacted institution and their corresponding staff. We collectively are implementing initiatives to improve the scope of health care in the Department and ensure that offenders sentenced to our charge are provided constitutional access to appropriate health care services.

In addition to working with the Receiver, I work in a cooperative approach with the Court Mandates and Special Masters assigned in other health care areas as well, pertaining to the *Coleman* Litigation Case, *Armstrong* Litigation Case, *Clark* Litigation Case, and most recently the *Perez* Dental Litigation Case.

Infrastructure

Overcrowding has resulted in heavy usage of certain prison sewage and wastewater systems in some prisons. Estimates for new wastewater facilities to serve High Desert and the nearby Community Correctional Center have doubled, according to the legislative figures.

28. Please describe the status of improvements to the High Desert wastewater system and what you are doing to limit costs. If you are not responsible, who is?

The HDSP does not have its own wastewater treatment facility, and shares use of the wastewater treatment facility operated by the California Correctional Center (CCC), located adjacent to the institution.

In 2004, the Department's Office of Facilities Management conducted an evaluation of the wastewater treatment plant that serves HDSP and CCC. The evaluation concluded that the plant required modifications and upgrades. The Department initiated a major capital outlay project to improve the wastewater treatment plant in 2005.

The Budget Act of 2005 appropriated \$1.7 million for land acquisition for the project. The Budget Act of 2006 appropriated \$1.6 million for preliminary plans to increase the plant capacity by 200,000 gallons per day.

The Regional Quality Control Board (RQCB) issued a Cease and Desist order for improvements to plant operations and required additional studies. This order required interim deliverables such as an agronomic study and review of seepage from existing wastewater ponds.

The results of a mandated agronomic study indicated a need to expand plant capacity by a total of 400,000 gallons per day or double the original project size. Additionally, the seepage study identified the need to line five existing unlined ponds.

The main reason for cost increases are items not anticipated in the original project, but that came to light based upon deliverables required by the RQCB. However in the interim, both HDSP and CCC have installed water savings devices and initiated water conservation measures at the two institutions and are realizing significant wastewater reductions. The water saving devices at HDSP alone are currently conserving about 10,000 additional gallons of water per building per day.

The wastewater treatment plant improvements are being managed by the Department's Office of Facilities Management.

Board of Parole Hearings

29. *How do you communicate with the Board of Parole Hearings regarding logistical support for the parole revocation and lifer hearings scheduled at your prisons? What processes do you have in place to ensure that this coordination is as seamless as possible to avoid postponed hearings?*

I am responsible for working with the Warden and their staff at each institution to ensure that Parole Revocation and Lifer Hearings take place as scheduled, and that all documentation has been appropriately copied and delivered. In addition, I am to ensure that the Warden has appropriate equipment for the Board of Parole Hearings (BPH), and that appropriate assistance is available for participating inmates that may require such. I ensure that departmental policy and procedures are adhered to and that the institution works to facilitate the BPH's legitimate needs as possible to prevent delays in processing. Weekly meetings are scheduled with representatives from the DAI, BPH, DAPO, CSU, Victim Services and the DMH.

Currently the HSTHU institutions operate with their clerical staff assigned to the parole desk communicating regularly with the BPH via telephone, fax, and e-mail. The Reasonable Accommodation forms are completed on each inmate. The assigned Correctional Counselor I (CC-I) communicates with each inmate to determine if there are any disabilities which require special accommodations. The institution staff provide the CRYACOM phone, Assisted Listening Devices (ALD), staff assistance and any other accommodations as needed.

The Classification and Parole Representative reviews the Board Reports submitted by the Correctional Counselor II (Supervisor). My experience within the mission is that there have been very few postponed cases. There were reported cases at a couple of the HSTHU institutions in which the Board had concerns with the psychological report; however, training was provided in these instances and the issue has been resolved.

MAY 21, 2007

Appointments

Mission, Responsibilities and Accountability

Until the department's 2005 reorganization, prisons were overseen by three regional administrators. With the reorganization, the structure changed to five mission-based associate directors who report to the Director of the Division of Adult Institutions.

The Associate Director, General Population Institutions (Levels 2 and 3) and Male Offender Camps, is responsible for 40,000 men incarcerated in the following eight medium- and lower-security institutions: Avenal State Prison; California Training Facility; Chuckawalla Valley State Prison; Folsom State Prison; Ironwood State Prison; California State Prison, Solano; and California Correctional Center and Sierra Conservation Center, which both supply inmates to 39 fire camps. In addition, the associate director has responsibility for 11 community correctional facilities with about 5,400 inmates.

Under the department's duty statement for the associate director position, the largest share of time – 40 percent – is to include visiting prisons to discuss, among other things security arrangements, housing policies, labor relations, and litigation. The associate director also collaborates with other associate directors to ensure uniformity in the way prisons are managed.

- 1. What do you consider your primary responsibilities within the new CDCR structure? What distinguishes the prisons under your mission and how does this affect your responsibilities? What distinguishes the Level III prisons under your jurisdiction from the Level III prisons under the jurisdiction of Associate Director for Level III/IV?**

My primary responsibility is the supervision and oversight of eight adult male prisons, twelve adult male Community Correctional Facilities (CCF) and 39 adult male conservation camps.

I feel I have the responsibility to provide safe incarceration and a rehabilitative environment where all offenders are treated with dignity and respect and receive responsive supervision, treatment, and services that increase opportunities for successful reintegration into their communities. In addition, my responsibility is to provide a safe environment to the public, staff, offenders, and fire safety to the people in the State of California.

I am responsive to the creation of programs designed to address the specific needs of all offenders; such as, expanding education, treatment, community placement opportunities, and creating a culturally competent and continuous learning environment.

My objectives for staff are to provide career development opportunities, keep positions filled, provide upward mobility, develop the workforce to ensure continuity of program, and successfully perform the programs stated in the mission.

The missions of each of the institutions under my jurisdiction are summarized below:

- Avenal State Prison (ASP) is designated as a low-medium security institution to provide housing for general population (GP) offenders. The ASP also houses mobility-impaired offenders on two facilities which have been modified to meet the Americans with Disabilities Act (ADA) Standards. The Prison Industry Authority (PIA) offers general fabrication (office panel system), poultry processing, egg production, regional institutional laundry, warehouse (shipping and receiving), wood product factory and maintenance. Vocational classes included: Auto body and fender, auto mechanics, carpentry, electronics, graphic arts and printing, landscaping, machine shop, mill and cabinet, office services and related technology, plumbing, refrigeration, small engine repair, welding, electrical works, painting and janitorial.
- The primary mission of the California Correctional Center (CCC) is to receive, house, and train minimum-custody offenders for placement into one of the institution's 18 Northern California conservation camps. The secondary mission of the CCC is to provide meaningful work, training, and education programs for offenders who do not meet the criteria for assignment to a conservation camp. Vocational classes include: Air conditioning and refrigeration; auto body construction; auto body paint; auto mechanics; dry cleaning; electronics; janitorial; landscaping; masonry; mill and cabinet; office technology; and welding.
- The California State Prison, Solano (CSP-Solano) is designed as a medium security institution to provide housing for GP offenders. The PIA offers: Book bindery, laundry, lens lab, metal fabrication, optical. Vocational classes include: Auto body, auto mechanics, carpentry, computer repair, eyewear manufacture, industrial electronics, landscaping and horticulture, machine shop, masonry, mill and cabinet, office services, painting, refrigerator and air conditioning, and welding.
- The mission of Chuckawalla Valley State Prison (CVSP) is to provide long-term housing and services for male felons classified as medium and low-medium custody offenders. Two of the four Level II facilities at CVSP are Sensitive Needs Yards (SNY). The other two facilities are GP Level II yards. The PIA offers a laundry program. Vocational classes include: Air conditioning and refrigeration, auto body and fender, auto mechanics, carpentry, computer and related technology, drafting, dry cleaning, electronics, graphic arts and printing, landscaping and gardening, masonry, office services, plumbing, roofing, upholstery, welding and cabinet making.

- The primary mission of the Correctional Training Facility (CTF) is to provide housing, programs and services for medium custody offenders at a secured level I, II and III facility's. The PIA offers: Textiles, warehouse, wood products, and silk-screen. Vocational classes include: Appliance repair, commercial paint, drafting, dry cleaning, electronic data processing, landscaping and gardening, machine shop, mill and cabinet, plumbing, printing, small engine repair, upholstery, welding, and vocational computer refurbishing.
- Folsom State Prison (FSP) primarily houses medium security Level II and III offenders. The FSP also operates a minimum-security support unit and a transitional treatment facility. The PIA offers: Administration, license plate factory, maintenance, metal fabrication, sign shop, and furniture factory. Vocational classes include: Auto body & fender, auto mechanics, building maintenance, electronics, graphic arts, janitorial, landscape gardening, masonry, mill and cabinet, office services, and welding.
- The primary mission of Ironwood State Prison (ISP) is to improve public safety through the confinement of minimum and medium custody male offenders. Vocational classes include: Air condition and refrigeration, auto body repair, auto mechanics, carpentry, drywall, electronics, graphic arts, janitorial, landscaping, maintenance, masonry, mill and cabinet, office equipment repair, office services and related technologies, plumbing, small engine repair, welding and machine shop.
- The primary mission of the Sierra Conservation Center (SCC) is to provide housing, programs and services for minimum and medium custody offenders. The SCC is one of only two prisons in the state responsible for the training and placement of male offenders in the Conservation Camp Program. The SCC administers 19 male camps located from Central California to the Mexican border. The PIA offers: Textiles (sewing). Vocational classes include: Mill and cabinet, auto mechanics, auto body and fender, director's plaque program, carpentry, graphic Arts, and office services.

The facilities under my mission are program-driven and focus on a rehabilitative environment, offering programs such as the Substance Abuse Program (SAP), vocational and educational programs, and PIA. Facilities under my supervision do not encounter as many lock-downs due to the lower custody level of the offenders.

2. ***Please describe your top priorities for the next 12-24 months. What do you want to accomplish? Please be as specific as possible and include expected timeframes and how you will measure your success.***

One of my top priorities is to ensure a safe environment for staff and offenders in my prisons, camps and CCFs. Security escape prevention assessments are routinely conducted at each of the prisons to monitor compliance with established regulations relative to security operations. I have toured all eight prisons, twelve CCFs and 21 of the 39 conservation camps to review operations first hand, and to meet and talk with staff and offenders. I will finish touring the remaining conservation camps within the next six months and continue with periodic tours of my facilities to ensure they are operating efficiently. I will maintain open communication and close working relationships with the wardens, California Department of Forestry (Cal-Fire) personnel, as well as the private vendors who operate the CCFs.

Also, a top priority is the implementation of the comprehensive Prison Reform Bill, Assembly Bill (AB) 900. This bill gives the California Department of Corrections and Rehabilitation (CDCR) the ability to expand offender training and job skills through vocational, pre-release, and substance abuse programs. One of my goals over the next 12 months is to ensure we are meeting the bench marks of AB 900. I plan to work with the wardens and other stakeholders to ensure the offenders in my facilities are provided the opportunity to obtain employment skills and training that can assist them in their successful reentry to the community.

The Distance Learning College Program is an education program that has shown significant success, and is one of my priorities. Currently, ISP is the only prison in my mission to implement this program. I plan to work with the wardens and the Division of Education, Vocations and Offender Programs (DEVOP) on expanding this program to all eight of my prisons within the next 12 months. Since the inception of this program at ISP, approximately 1,000 offenders have enrolled, with 217 of those offenders graduating with Associate Arts Degrees.

Pride Industries is a job placement program that is currently being offered as a pilot project to a select group of offenders in conservation camps. It is my goal and a priority to expand this program over the next 24 months to all eligible offenders in conservation camps. The current statistics show that the recidivism rate for conservation camp offenders is above 40 percent; however this should be our primary target population for recidivism reduction. The success of this program will be monitored from statistical data maintained on the offenders participating in the program.

Additionally, it is a top priority to implement a SAP over the next 12 months at Delta Conservation Camp. I will work closely with the warden at CCC, Division of Addiction and Recovery Services (DARS), and other stakeholders on the implementation of this program. Currently, there is a SAP servicing the camp offender population for our southern region camps, and the goal is to expand the program for the northern region camp population. The success of this program will be measured by statistical data on the number of offenders who successfully complete the program and are successful upon parole.

3. *What management experience has prepared you for this role? What management training have you received?*

I have held several management positions within the California Department of Corrections and Rehabilitation (CDCR) since I began with the department in August 1979, as a Correctional Officer at the California State Prison, San Quentin (SQ). I held that position until June 1983, at which time I promoted to Correctional Sergeant at SQ, in 1985, I then transferred as a Correctional Sergeant to the California Medical Facility (CMF). While at CMF, I promoted to Correctional Lieutenant in June 1987, to Correctional Captain in October 1995, and to Facility Captain in November 1997. In April 1998, I promoted back to SQ to the position of Correctional Administrator/Associate Warden. I promoted to Chief Deputy Warden (CDW) at SQ in September 2000 and held this position until May 2003, at which time I transferred to CSP, Solano, as the CDW through April 2004. I promoted to Warden at CTF in April 2004 and held that position until July 2006. In July 2006, I accepted the position I am currently in, as Associate Director.

During my tenure with the department, I have attended several management training courses:

- June 2006 – Executive Leadership Program, Sacramento
- January 1998 – Leadership Institute, Chico State
- November 1995 – Management Training
- October 1989 – Training for Trainers
- January 1986 – Conflict Management
- September 1985 – Labor Relations
- March 1985 – Advanced Supervision
- February 1984 – Basic Supervision
- May 1983 – Collection & Preservation of Evidence
- August 1979 – Penal Code (PC) 832 Academy Training

4. *How do you allocate your time given that the prisons under your jurisdiction are located in very different parts of the state from Chuckawalla State Prison near Blythe to the California Correctional Center near Susanville?*

Meeting with the Wardens and managerial staff as well as subordinate staff at the institutions is very important to me; therefore, I set aside dates to meet at the respective institutions, camps and CCFs that are under my mission.

As previously stated, I have toured all my institutions, CCFs and 21 conservation camps. Although my mission is spread throughout the state, I feel it is critical that I continue these tours to meet with my Managers, staff and offenders, to ensure that the

institutions are meeting the Department's expectations. In addition, I communicate with my institutions via:

- Mission breakout meetings – Quarterly meetings held with my eight mission Wardens where I provide training, expectations and open discussions concerning mission issues
- Departmental Wardens meetings – Quarterly meetings held with all the institutional Wardens, Associate Directors, and Director
- Conference Calls
- COMPSTAT meetings
- Security Audits
- Day to day communication

5. *How do you keep yourself apprised of what is happening inside the prisons? Beyond the warden, do you meet with staff representatives, the CDCR Ombudsman, the inmate advisory councils organized at each prison, and/or inmate families?*

I receive the minutes of each Warden's Executive Staff Daily Briefing on a daily basis. In addition, I communicate with the Wardens concerning significant issues/incidents, such as, riots, offender or staff deaths (both on and off duty), major staff injuries, major physical plan issues, escapes, etc., that may affect the operations of their institution. I also receive the minutes from the Warden's monthly meetings with the various bargaining units at the institutions.

While touring the institutions, the conservation camps and the CCFs, I meet with the management teams, the supervisory staff and the line staff. All staff have the opportunity to raise any concerns/issues they deem important. I communicate with the Ombudsman's office on a regular basis to resolve issues within the mission.

The Wardens have the primary responsibility to meet with the Inmate Advisory Council, namely the Men's Advisory Council and the Inmate Family Council members at the local level. I attend the Director's Level Inmate Family Council meetings and interact with the Inmate Family Council members during those meetings. I personally address inmate and inmate family issues which come to my attention.

6. *As you review the institutions under your jurisdiction, what do you look for to determine whether a prison is operating well? What do you consider "red flags?"*

There are several factors that I take into consideration to determine the functionality of an institution. A key component is the overall budget of the institution. Each month my staff receives and reviews the Monthly Budget Plan. This allows me to evaluate how each institution is managed from a fiscal point of view. We evaluate any high increases to ensure that each Warden is operating their institution within their budgetary authority. Constant communication is maintained with each Warden and Associate Warden of Business Services, and if any issues are discovered, then immediate corrective action is taken.

The security component is a daily task that is closely monitored by me and my headquarters' staff. Each day we receive information about incidents that have occurred. We review and evaluate this information and summarize the high-level security issues into a daily report. In addition, my staff and I review these reports to ensure that staff actions during incidents are within departmental policy and procedures.

Each quarter, the Department conducts Computer Statistics (COMPSTAT) reviews that allow each institution to present a snapshot of their institution. The COMPSTAT is a tool that I use to assist in gauging the operating success of my institutions. This report has the potential to help me better manage those institutions that might have reoccurring problems. If I find issues that require our assistance to correct, due to the complexity of the problems that some institutions may face, such as staff shortages, increase offender disturbances, high levels of staff sick calls, and other sensitive related issues, I assign someone from my staff to help oversee that institution to ensure that the problems are corrected.

When I review my institutions for "Red Flag" issues, I look for areas of concern that can forecast potential future problems. I utilize many tools to assist me such as the Crime/Incident reports, COMPSTAT, security audits, fiscal reviews and correspondence from the public. These tools provide resources to me that I can use to gauge the functionality of the institutions under my management.

Certain "Red Flags" that are of particular concern to me are those that could affect the operation of the institution. Staff vacancies, high disciplinary cases (both staff and offenders), maintenance issues that have not been corrected are examples of issues that have the potential to jeopardize the safety and security of the institutions. I work closely with my staff and the institutions Wardens to help in controlling these issues and rectifying problematic issues. All of my Wardens know my expectations and take great strides to help prevent problems from occurring.

7. What issues do you expect individual wardens to bring to your attention? Please provide specific examples, if possible.

The Wardens under my mission are aware that I have an open door policy which enables them to bring to my attention any issue they may encounter. It is important that I am made aware of what is occurring within my prisons. An issue at one prison may have the potential of becoming an issue at another.

There are specific issues that I expect my Wardens to bring to my attention, such as:

- Any major disruption that affects the normal operation of the institution, i.e., natural disasters, long term power outages, major structural damage to the institution;
- Major offender disturbances;
- Offender homicides;
- Staff deaths;
- Disruptive offender actions, i.e., hunger strike, work strike, etc.;
- Any serious injury to staff or offenders;
- Serious employee discipline/investigation;
- Staff arrests;
- Employee job actions;
- Media contacts;
- Legislative contacts requiring follow-up
- All community functions such as open house, career day, recruitment efforts, charity events, etc.

It is important that I am proactive in the supervision of the wardens within my mission.

8. How do you measure an institution's commitment and capacity to implement the department's rehabilitative mission? What authority and resources do you have to make improvements when you determine that they are needed? Please provide specific examples, if possible.

The CDCR is committed to implementing rehabilitative programs in our institutions to break the cycle of crime, imprisonment, and recidivism that has prevailed in our system. I fully support the Department's philosophy of improving public safety through rehabilitative programs. The Department's rehabilitative efforts have been hindered by overcrowded conditions in nearly every prison in the system. This overcrowding, coupled with high staff vacancy rates at many institutions, has made the implementation of rehabilitative programs very difficult. I am encouraged by the passage of AB 900 and the opportunity it provides to reduce overcrowded conditions. I accept the challenge contained within AB 900 to meet the rehabilitative benchmarks of increased

educational and substance abuse programs, decreased staff vacancies, and reduced overcrowding.

I closely monitor each institution's rehabilitative programs through a variety of venues. The formal quarterly COMPSTAT review process provides a means in which each institution's performance measures are scrutinized. In addition to the quarterly review, I hold monthly COMPSTAT conference calls with the prisons within my mission. Wardens' meetings are held each quarter, wherein all 33 Wardens have the opportunity to share ideas on rehabilitative programs at the separate facilities.

I also chair quarterly Wardens' meetings with the prisons of my mission that allow my eight Wardens to exchange information concerning programs at institutions similar to their own. For instance, approximately 18 months ago, SCC developed and implemented a program called, "Freedom in Choice." This voluntary program allows offenders housed on the Level I Calaveras yard the opportunity to live in honor dorms. The offenders sign an agreement upon entering the program in which they elect to abide by all departmental rules in exchange for participation in the program. The offenders live in racially integrated dorms without the pressure from other offenders to engage in gang activities, violence, or tobacco, alcohol and drug use. This program has proven so successful that I and the Warden of CCC are now considering a similar program.

I tour the institutions in my mission, the CCFs and conservation camps. During these tours, I discuss rehabilitative programs with each facility's management staff, and provide them with encouragement, support, and suggestions for improvement. When not able to travel, I stay in frequent contact with Wardens and CCF Administration via telephone.

I participate in regular meetings with the Chief Deputy Secretary of Adult Programs and other executive staff, where I advocate for my Wardens concerning their need for assistance in developing and implementing educational, vocational, and other rehabilitative programs. I make recommendations to the Director of the Division of Adult Programs regarding effective rehabilitative strategies.

When Wardens in my mission are encountering impediments to implementing rehabilitative programs, I involve the appropriate headquarters personnel to resolve issues. I advocate for my Wardens in the Budget Change Process, to seek funding for new rehabilitative programs. I elevate issues to the Deputy Director and Director of the Division of Adult Institutions (DAI), as well as the Secretary during regularly scheduled meetings.

I participate in the selection process for wardens and CDWs within my mission. I make personnel recommendations to the Director of the DAI when executives in my mission are not meeting expectations.

I am a member of the California High Risk Sex Offender Task Force that is seeking to establish mandatory treatment programs for sex offenders while incarcerated and on parole.

- 9. *If we were to visit every institution under your jurisdiction, where should we expect to find consistency and standardization? Where would we expect to see variation? Please give some examples of where you have established consistency across the prisons under your jurisdiction?***

Consistency and standardization of each of the institutions within my mission can be found in the areas of housing, offender services, programs, Life Improvement and Self Help Skills, which are needed to successfully re-integrate each offender into society, giving the offender a better understanding of himself and the community. The Life Improvement/Self Help programs include, but are not limited to: Narcotics Anonymous, Alcoholics Anonymous, Veterans in Prisons, Literacy, Parenting, Youth Diversion, Victims Offender Reconciliation Group and Alternatives to Violence.

Other areas of consistency include, Use of Force reviews, lockdowns/modified programs which are monitored weekly via the Program Status Reports and the offender disciplinary process.

In addition, consistency is found within the various offender programs, these programs include, but are not limited to: PIA, vocational and academic. Each of these programs is designed for the offender to be able to obtain a skill/trade that enables him to further his educational awareness. The specific programs offered within the PIA, vocational programs and educational programs will vary from each institution. The variations include: License plate factory, metal fabrication, furniture factory, auto body, building maintenance, electronic, appliance repair, drafting, landscaping and mill & cabinet just to name a few. In addition, it is important to note that CCC and SCC are the only two prisons in the state with dual missions. These prisons are responsible for the training and placement of male offenders in the conversation camp program. The CCC and SCC work collaboratively with Cal-Fire and the Los Angeles County Fire Department. In addition, these two prisons also provide meaningful work, training and education for those offenders who do not meet the criteria for assignment to a conservation camp.

The areas which I have established consistency within the institutions under my mission:

- I continue to stress rehabilitative programs within my institutions; for example, ISP is proposing a vocational class in filmmaking, which would offer offenders in the program an opportunity to learn filmmaking and earn a certificate.

- Each Warden is encouraged to involve himself/herself with the General Education Development (GED) graduations held at his/her institution.
- The Volunteer Program.
- The Alternates to Violence Project
- Mandatory access to the Substance Abuse Program.
- My quarterly meeting that I have established with all Wardens is an excellent arena to share and discuss issues relative to each Warden's prison which have allowed for a consistency of uniqueness.

Staff Issues

10. *What role do you play in identifying and providing staff training at each of your institutions? Please provide specific examples.*

My role is to supervise and work collaboratively with the Wardens in identifying training needs. This is accomplished by conference calls, Wardens meetings, mission meetings, conducting security audits, and day to day communication with the institutions.

A course of action is documented and disseminated to the appropriate areas of concern, when training issues are identified. This may involve a memorandum, on-the-job training, or formal classroom training, if necessary.

My office conducts Security and Escape Prevention Assessments of the prisons under my supervision. If an area of concern is discovered, my staff will provide training to the personnel directly involved in the supervision and operation of the area. My office provides staff to conduct training when new departmental policies and procedures are implemented within the institutions under my direct supervision.

Additionally, my staff review all of the Crime/Incident Reports generated within my mission for accuracy and thoroughness. The mission staff communicates with the institution if training issues are identified.

11. *How do issues of staff safety come to your attention? Please describe your role in addressing these issues and provide specific examples.*

Staff safety issues come to my attention through a variety of sources, i.e. the Warden's Daily Briefing Reports, telephone conversations with the Wardens, the quarterly Wardens meetings, while visiting a facility, and through bulletins from the Office of

Correctional Safety. I also become aware of staff safety issues through the Crime/Incident Reports and the through the Associate Director's level of review of Use of Force issues.

The Office of Labor Relations advises me of safety-related grievances that are filed within the mission. My staff conduct regular security/escape assessments at the institutions which would also identify potential safety concerns. I communicate the results of these assessments with the Wardens and, if needed, a corrective action plan is prepared and submitted for my review and approval.

I am currently working with the Warden at the CCC and the Emergency Operations Unit (EOU) in providing stab resistant vests for the custody staff at the 18 conservation camps that fall under the control of the CCC. Staff is currently in the process of being fitted, with approximately 80 percent of the fittings completed. It is anticipated that by September 1, 2007, all staff are to be wearing the stab resistant vests. I will also be working with SCC and EOU on vest placement for the custody staff in the conservation camps under the control of SCC in the next fiscal year.

12. *The department has several leadership programs for first and second line supervisors (The Leadership Challenge) and managers (Sacramento State Leadership Development Program). What are you doing to ensure that the lessons learned from the programs are applied/coordinated? Please be specific. How have you applied what you have learned from these classes?*

Each Warden and/or CDW has the responsibility of meeting with those first and second line supervisors who have attended the training classes. The purpose of the meeting is to give the employee the opportunity to discuss and document the lessons learned. The documentation allows the Warden to review and determine if the lesson learned will effectively meet the needs of departmental policy, regulations and also ensures that the lessons provided meet the needs of that particular mission base institution.

The quarterly meetings I've established with all of my Wardens allow me to review current policies and regulations established by the Department. This review ensures that each prison continues to be inline with the direction of the Department. It also allows me to determine if the mission of that particular prison can continue to effectively meet the needs of the prison population.

These meetings are an invaluable means to share and brainstorm the many ideas which may affect the general operation of the institution and to ensure that the approved plans established between the Warden and manager/supervisor are implemented. Meeting with all Wardens enables me to hear first-hand what specific programs they may have difficulty in implementing. If the Warden encounters a challenge of implementation that would have a positive benefit on the mission of the prison it then

becomes my responsibility to assist the Warden in the appropriate direction of implementation.

The training courses I have participated in have provided me with the opportunity to:

- Be an advocate for training and education – The future of our department is based on the managers/supervisors of today; therefore, it is imperative that the Department continue to train those who can bring innovative and challenging ideas to the Department in order to make a positive difference;
- Encourage ideas – I expect to be a “sounding board” for issues relative to challenges that the Wardens may encounter;
- Lead by example;
- Inspire and motivate;
- Ensure that each of my Wardens are aware of and on track with the rehabilitation model of the department;
- Continually train the Wardens during the quarterly meetings, as well as the regular visits that I make to each prison;
- Mentor;
- Share ideas;
- Provide accessibility to my Wardens – Encouraging each Warden to contact me day or night to discuss issues/concerns they may have pertaining to their prison and or to the department;
- Model the way and challenging the process.

13. As of December 31, 2006 there were more than 500 correctional staff vacancies at prisons under your jurisdiction. What are you doing to reduce the number of staff vacancies and recruit new officers, especially at remote prisons such as Chuckawalla? What progress can we expect to see in the near future? What role have you played in determining where new academy graduates are sent?

I take this matter very seriously. Staff vacancies cause many issues at all institutions. It leads to a lack of program activities for offenders, lowers staff's morale, and increases budgetary expenditures. My staff closely monitors this situation and we work with the Office of Peace Officer Selection (OPOS) to ensure that the academy is addressing our depleted ranks in the field.

The following charts represent my institutions:

Correctional Lieutenants (based on SCO Report dated May 1, 2007)

INSTITUTION	POSITIONS ALLOCATED	POSITIONS VACANT	Vacancy Rate (%)
Avenal State Prison	38.37	4.37	11.39%
California Correctional Center	47.59	4.59	9.64%
Chuckawalla Valley State Prison	28.53	4.53	15.88%
Correctional Training Facility	50.9	7.9	15.52%
Folsom State Prison	28.86	1.86	6.44%
Ironwood State Prison	29.11	1.11	3.81%
Sierra Conservation Center	43.7	2.7	6.18%
Solano State Prison	31.7	5.7	17.98%

Correctional Sergeants (based on SCO Report dated May 1, 2007)

INSTITUTION	POSITIONS ALLOCATED	POSITIONS VACANT	Vacancy Rate (%)
Avenal State Prison	91.32	8.32	9.11%
California Correctional Center	86.51	6.51	7.53%
Chuckawalla Valley State Prison	52.18	8.68	16.63%
Correctional Training Facility	129.81	20.81	16.03%
Folsom State Prison	71.9	2.4	3.34%
Ironwood State Prison	68.42	2.42	3.54%
Sierra Conservation Center	79.1	8.1	10.24%
Solano State Prison	79.2	11.2	14.14%

Correctional Officers (based on SCO Report dated May 1, 2007)

INSTITUTION	POSITIONS ALLOCATED	POSITIONS VACANT	Vacancy Rate (%)
Avenal State Prison	757.2	36.89	4.87%
California Correctional Center	580.42	32.42	5.59%
Chuckawalla Valley State Prison	438.97	81.97	18.67%
Correctional Training Facility	879.03	149.75	17.04%
Folsom State Prison	497.7	35.7	7.17%
Ironwood State Prison	655.59	77.59	11.84%
Sierra Conservation Center	585.3	24.3	4.15%
Solano State Prison	677.9	26.9	3.97%

The Department has taken steps to reduce staff shortages by operating satellite academies at Community Colleges located near these isolated institutions; for example, the Lassen Community College in Susanville. The academy at Susanville was successful for both CCC and High Desert State Prison. Both of these institutions jointly held the satellite academy, graduating 76 correctional officers, of which 32 were assigned to CCC. It is our intent to hold additional satellite academies in Susanville.

My desert institutions, ISP and CVSP, have hosted several local Focus Recruitment events. This is an ideal way to get the news out to the local populace of the benefits they could receive by applying for a career with CDCR. These steps will continue and I will continue to assist my institutions in gaining the staff resources they need.

In addition, in response to the critical need for staffing in many of its institutions, the Department has instructed the OPOS to conduct random telephone sampling of candidates to see if they would be willing to work at one of the critical needs institutions indicated in the chart below, which includes three of the institutions within my mission: ISP, CTF and CCC. The sampling had results that indicated 115 positive responses; 16 negative; and 69 non-responses.

(Provided by OPOS)

- | | |
|---|--|
| • Salinas Valley State Prison (SVSP) | • Valley State Prison for Women (VSPW) |
| • Ironwood State Prison (ISP) | • San Quentin (SQ) |
| • Correctional Training Facility (CTF) | • California Correctional Institution (CCI) |
| • High Desert State Prison (HDSP) | • Centinela State Prison (CEN) |
| • R. J. Donovan Correctional Facility (RJD) | • Wasco State Prison (WSP) |
| • California Correctional Center (CCC) | • California Medical Facility (CMF) |
| • California State Prison, Corcoran (COR) | • Central California Women's Facility (CCWF) |

In response to the expressed need, results of the survey, and identification of critical need institutions by DAI, the OPOS began the process of priority processing those applicants who are willing to work at critical needs institutions. This will help to staff those institutions and relieve the current burden of filling vacancies that have been placed upon the staff of those institutions.

In response to your questions regarding reducing staff vacancies at CVSP, the Department has worked closely with the institution's Warden to provide him with the resources he needs to help assist in informing the populace of the benefits of working for our department.

The CVSP has held several local Focus Recruitment efforts that have occurred since last November:

- November 9, 2006 – CVSP participated in the Job Fair at Palo Verde College in Blythe.
- January 11, 2007 – OPOS conducted a local recruitment program, which included administering the written test.
- February 27, 28, and March 1, 2007 – OPOS conducted a local recruitment program, which included the psychological and physical abilities tests.
- March 29, 30, 31, and April 1, 2007 – CVSP operated a recruitment booth at the Colorado River Fair in Blythe.
- April 8, 2007, through April 12, 2007 – OPOS conducted Peace Officer recruitment session at the Phoenix Convention Center in Arizona. The CVSP provided recruitment staff on April 10 and 11, 2007.
- May 3, 2007 – CVSP participated in the Job Fair at Palo Verde College in Blythe.
- May 14, 2007 – CVSP will participate in the Job Fair at the Riverside County Workforce Development Center in Indio.

My future plans are to continue to call for my Wardens to take a pro-active approach to filling their depleted staff ranks. We will continue to hold local Focus Recruitment events to help promote the benefits of working for our department. I continue to support efforts to maintain the remote satellite academies to assist the institutions in filling their vacant custody ranks. The Department will soon open an additional academy in Southern California. This was made possible by the support of the Legislature in passing AB 900; I applaud your decision to support this effort.

Custody and Population Management

Facilities are overcrowded with thousands of inmates living in converted gymnasiums and program space. As of December 31, 2006, there were 3,100 inmates living in gymnasiums at the prisons under your jurisdiction.

14. *What responsibility do you have for population management decisions? Please provide examples of the types of decisions you have delegated to the wardens and some you have elevated to the Director of Adult Institutions?*

I am very concerned over the current overcrowding problem in the CDCR. I am actively involved in the population management of the institutions under my mission. Through communication with Wardens, the Director, and the Classification Services Unit (CSU), I am involved in the identification and planning of capacity needs for each of my institutions.

The CSU holds a weekly population management meeting with the various impacted stakeholders which I, or my staff representative, attend. In these meetings, discussions are held regarding issues such as: bed vacancies, bed needs, institution mission changes, and program needs. In addition, the Director holds a weekly population management meeting with the Associate Directors that I also attend. Basically, the focus of this meeting is the placement of offenders into facilities and programs specific to the offender and departmental needs.

As previously mentioned, AB 900, which provides for the increase to the number of beds in state prisons, will relieve overcrowding. The additional beds are tied to rehabilitation services, such as, mental health, vocational, educational and drug-treatment programs. This new rehabilitative approach should assist the offenders released back to the community to be able to lead productive, law-abiding lives in our communities.

15. *When there is a lockdown or modified program at a prison, the activities of some inmates are limited. What role have you played in reviewing situations such as this and in determining how and when the institution should return to full programming?*

The goal of CDCR is to re-establish normal programming as soon as safely possible. With that in mind, I review a synopsis of all modified/lockdown programs within my mission on a weekly basis. For any program modifications lasting longer than 60 days, I hold a telephone conference call with the warden and institutional staff on a bi-weekly, or more often as needed, basis until the program has reverted back to normal.

I review the institution's unlock plans and make suggestions/recommendations that may expedite the return to normal programming. I coordinate with CSU and the other Associate Directors to assist with returning the program to normal. The return to normal programming is a collaborative effort between myself and the warden and their management team.

16. *How do you monitor or assess day-to-day operational issues, such as timely processing of mail, visiting, yard time, canteen, phone calls, inmate appeals, level of violence, etc.? Are there examples of situations where you stepped in to make a change?*

I am able to monitor issues in a variety of ways:

- Quarterly Computer Statistics (COMPSTAT) reviews; monthly mission COMPSTAT conference calls;
- Crime Incident reports;
- Quarterly Mission Breakout meetings;
- Quarterly wardens meetings;
- Institutional Compliance Reviews;
- Day to Day contact with wardens;
- Conference Calls with wardens;
- Program Status Reports;

In addition, I address pertinent issues as needed. For example, I received information from CSU that an institution under my supervision had inappropriately housed an offender in the GP who had returned from court with an additional commitment of life without the possibility of parole (LWOP). Because the institution felt that the offender had a low violence potential they were adamant in their position to keep the offender in the GP. I immediately instructed the Warden for that institution to re-house the offender in Administration Segregation Unit (ASU) until the offender could be transferred to an appropriate facility suitable to the offender's security needs. I also provided training regarding the California Code of Regulations Title 15 as it pertains to appropriate housing of LWOP offenders to all Wardens during our Quarterly Mission Breakout meeting.

On occasion, Wardens have failed to notify/contact administrative staff of serious incidents. When those situations occurred, I provided training and departmental expectations.

17. *The administrative segregation housing units are among the most costly units operated by the department. Please describe your role in reviewing who occupies these beds and how long they stay there.*

One of the components of the COMPSTAT report pertains to ASU housing. During my review of COMPSTAT, if an increase in the ASU population occurs, I make contact with the Warden of that institution to inquire the reason for the increase in this population. I will provide instruction and recommendations to the Warden for the management and reduction of this housing as appropriate.

In addition, I monitor this issue to ensure that:

- I have continued coordination with the institution's Classification and Parole Representative's office to expedite ASU transfers as appropriate;
- The mission staff conduct ASU compliance reviews;
- I review reports submitted by the Audits and Compliance Unit;
- A plan is implemented to reduce ASU overflow to levels at or below budgeted staff capacity by transferring Security Housing Unit (SHU), Sensitive Needs Yards, and GP offenders to appropriate housing locations; complete investigations; and endorse offenders for transfer;
- Weekly and monthly ASU overflow reports are submitted to me;
- Timelines are established toward completion of investigations (within 30 days) and offender disciplinary hearings (within 45 days) for all offenders housed in ASU;
- Endorsed cases are transferred out of ASU to other institutions, with cooperation of Associate Directors of receiving institution staff and CSU Population Management;
- Initial Classification Committees review all active SHU cases that are housed in ASU for consideration of release to GP.

Adult Programs and Pre-Release

18. *What responsibility, if any, do you have for the creation or elimination of individual academic, vocational self-help, and pre-release programs for inmates at your institutions? Please provide examples of specific times when you have been involved in decisions such as this.*

The Wardens have primary responsibility for offender programs at their respective prisons. My responsibility is to work collaboratively with the DEVOP, the Wardens, and other stakeholders to bring programs to the institutions and facilitate removal of identified barriers. The Associate Directors have also have met with the Chief Deputy Secretary of Adult Programs to assess the needs of the prisons, as a whole, and identify suitable programs. Additional meetings are planned for the future. The program objectives are to reduce recidivism by providing offenders with comprehensive academic, vocational and substance abuse programs that promote rehabilitation and employability when they return to the community.

Recently, we began a pilot project established with Pride Industries at three of our conservation camps; Washington Ridge, Sugar Pine and Delta that will provide job placement services to a select number of qualified offenders at the conservation camps. Pride Industries provides a comprehensive job placement program and detailed aftercare casework, and offers a transition program which consists of an on-the-job training program, in which the workers receive certificates upon completion. The group will begin working with the offenders prior to parole and will continue on with them months after parole, until the offender/parolee has obtained suitable employment. It is employment-based rehabilitation that has the potential to be successful.

The Division of Community Partnerships established a pilot program at four institutions, two of which are within my mission; FSP and ASP. This pilot program is, in part, to manage the Prison Reentry Initiative program as well as perform duties that previously were conducted by the Community Resources Managers. The objective is to develop meaningful collaborations and processes to promote shared responsibility for reducing recidivism and community safety by establishing and expanding collaborative relationships with key stakeholders. These stakeholders include local law enforcement, local governments, faith-based and community organizations, and academic institutions.

The Division is also charged with managing the following programs: Inmate Leisure Time Activity Groups, Inmate Family and Religious Programs, grants for faith-based and community organizations, volunteers and local government partnerships.

I work collaboratively with the Division of Community Partnership staff and the Wardens at both FSP and ASP to ensure the goals achieved. I also provide input to the Wardens when obstacles arise at either institution, review monthly religious and self-help programs data via the monthly COMPSTATS reports. I strongly support the efforts of the Division of Community Partnership and the programs they make available to the offenders within my Mission.

19. *What specific progress have the institutions under your jurisdiction made in the areas of adult programming and pre-release planning?*

Overcrowding and staff vacancies have hindered the Department's ability to establish large-scale new programs in our facilities. I have focused instead on maximizing the participation in existing educational, vocational, and work incentive programs. Each Warden reports their program statistics in the quarterly COMPSTAT process, as well as in monthly mission COMPSTAT conference calls. I am happy to report that my overall mission operated its educational programs at 101 percent of enrollment capacity during the first quarter of 2007. Vocational programming was less successful during the same period, operating at 87 percent of enrollment capacity. I address these issues with my Wardens to determine what the underlying impediments are to full enrollment. Because of the similar mission of the prisons under my supervision, Wardens are often able to offer effective solutions to each other during conference calls and Wardens' meetings.

The first quarter 2007 COMPSTAT indicates that 4,770 offenders are enrolled in academic programs within the prisons and CCFs of my mission. Another 3,556 offenders are enrolled in vocational programs and 351 offenders received their GED during the first quarter of this year. During the same period, 44 high school diplomas were awarded.

Several innovative approaches are under consideration for expanding educational opportunities in existing space. The FSP is seeking approval to implement educational programs that will operate on two tracks, 4 days per week, 10 hours per day. This will allow existing classrooms to be utilized seven days each week, with the two tracks sharing the same space.

A voluntary GED pilot program was implemented in May 2006 at Prado Conservation Camp near Chino. An instructor is provided by Chaffey College for evening classes two nights per week. Up to 15 students attend the classes during their non-work hours. The program has resulted in approximately 20 offenders receiving their GEDs and is expected to be expanded to all southern Conservation Camps.

The DEVOP provides pre-release programming at each of the institutions within my mission. It is a voluntary program for offenders designed to assist the offender in transitioning to parole stressing community resources, decision making, job preparation and career exploration.

In addition, the Parole Planning and Placement (PPP) program was implemented by the Division of Adult Paroles (DAPO) in May 2004. This program operates in every prison in the department. The DAPO staff at each facility use information from the offender's central file and individual interviews to develop effective individualized parole plans for each offender prior to their release. The information gathered through this process is

used by a designated DAPO District Social Worker to match parolee needs to existing DAPO and community-based programs.

There is much work remaining to be done. Reducing overcrowding and staff vacancy rates will allow additional educational and vocational programs to be established. It is imperative to our success that space intended for offender programs be used for offender programs. Reduced overcrowding will decrease the number of violent incidents that result in program modifications and lost program hours.

20. *How have you coordinated with the Parole Agent II at each institution to prepare inmates within the final months of their release? What percentage of inmates is being reached by this process at the institutions under your jurisdiction?*

As stated above, the PPP program has been implemented by the DAPO and is operated and supervised by the DAPO. Although I do not personally interact with the Parole Agent II at each institution in my mission, it is my expectation that each Warden ensure the PPP program is operating effectively in their institution. I have communicated this expectation to my Wardens and mandated that each of them have the Parole Agent II at their facility meet with their respective executive staff to explain the PPP program and its benefits to individual offenders in establishing effective parole plans. My staff and I interact with DAPO staff when issues arise that require my attention.

Every offender, within 240 days of parole, participates in this program, with the exception of those facing deportation, civil narcotics addicts, and those offenders participating in other parole planning programs due to their mental health or medical needs.

Ironwood State Prison has operated a successful partnership with the Palo Verde Community College District for several years, allowing inmates to access community college programs through distance learning. A number of inmates have earned Associate of Arts degrees through this program, which has also had a positive effect on inmate behavior at the institution. Previous department directors have assured the Rules Committee that this program would be replicated.

21. *What role do you play in examining and expanding successful programs like this to other institutions in your jurisdiction? What are the barriers to recreating a similar program elsewhere? How are you addressing those barriers? What progress can we expect to see in the near future?*

During quarterly Warden's meetings and quarterly Mission Breakout meetings ideas of programs are shared providing both positive and negative feedback from Wardens and Associate Directors. Also, I work closely with the Wardens to ensure their working relationship with DEVOP executive staff is cohesive in order to continue to enhance and develop programs designed to prepare offenders for their transition into society and provide skills that will make them self sufficient.

My role is to set expectations and support operations of on site or distance education/correspondence services to offenders in my mission to provide an opportunity to participate in Post Secondary Education that leads to earning college degrees, career certification, and personal development.

There are barriers in regards to the costs. The CDCR general funds are not used to support college programs. The colleges, offenders and their families bear the full cost except for fee tuition waivers offered by the Community Colleges.

The California Community College Extended Opportunity Programs and Services (EOPS) is historically for low-income and educationally disadvantaged undergraduate students who need admission assistance or support services to succeed in college. The main focus of EOPS is assistance to the local community; however, in some instances such as at ISP, the needs of the local community are not there in large enough numbers to use the EOPS funds. Therefore, these funds can be used to assist offenders.

Other colleges have not duplicated the Palo Verde effort due to the high demand by the local communities for the EOPS funds. As an example, Sacramento area colleges are beyond their capacity to help the low income local community needs and therefore cannot admit incarcerated individuals into their EOPS program.

While the ISP model has not been duplicated as a mirror image, CDCR has increased college programming opportunities for offenders. The largest provider of college correspondence course work is Coastline Community College (Spring 2007 enrollment 3,391), which is operating in all of the prisons. The CDCR has several partnerships with Community Colleges, including the Palo Verde Community College at ISP, and Lassen Community College and Feather River Community College at CCC.

The CDCR staff are volunteering their services to coordinate college programs including proctoring, registration, book delivery, and final grades posting.

The Prison Industry Authority (PIA) offers employment opportunities to 2,300 inmates under your jurisdiction. There is a waiting list of 4,000 inmates at these prisons.

- 22. *PIA is a separate entity within the department. How have you coordinated with its staff to create jobs and job training for inmates in your institutions? What role, if any, do you play in determining the size and types of programs at each institution?***

The PIA consults me about changes in the PIA Program that may have an affect on the offender population. I work with the PIA executive staff. I have an excellent working relationship with Chuck Pattillo, General Manager of PIA. Together, we strive to develop programs that are designed to rehabilitate offenders and to facilitate their successful reentry into society, which is one of the main objectives of the CDCR.

I work very closely with the PIA because the PIA program has very positive results for CDCR and society. For example, the program assists offenders to gain employment upon parole, reduces prison violence, reimburses crime victims, saves taxpayer dollars, develops work skills, and it produces quality products.

The PIA, along with the Northern Carpenter Regional Counsel established a carpentry pre-apprenticeship program at FSP. The Carpenters Union (Local 46) provides union instructors and the program provides offenders training in construction and enhances their potential for employment and successful transition back into the community. The successful completion of the program also makes them eligible for placement in a full-scale apprenticeship program through the Carpenter Training Committee for Northern California.

The department's internal statistical report for the fourth quarter of 2006 listed about 2,200 substance abuse treatment beds at your institutions, and they were all filled. By comparison, high security facilities had only 600 slots, and they were only 73 percent occupied.

- 23. *What responsibility do you have for initiating or monitoring substance abuse treatment programs at the prisons under your jurisdiction? How do you coordinate these efforts with the new Division of Addiction and Recovery Services? As of December 31, 2006, there were more than 850 inmates waiting to get into these programs at your prisons. Who assesses the needs of inmates and decides which should be admitted to the limited spaces? What, if any, is your role in that process? Please provide examples of how you have been involved in this process.***

I do not initiate, but I do monitor SAP participant numbers within my mission via COMPSTAT. I am currently working with the DARS in establishing a substance abuse treatment facility at one of the northern conservation camps. This project is a priority to me as a majority of the conservation camp offenders are incarcerated for crimes related to substance abuse. The southern camp SAP at Baseline Camp is producing promising results.

The ASP, CTF, CVSP, ISP, SCC, and SOL all have SAP and all the programs are full or near 100 percent capacity. It is a priority to me to keep these programs filled and to provide assistance to offenders who are suffering under the tragic consequences of addiction.

Forming a partnership with DARS to establish open communication and shared vision will assist in the creation of new treatment areas. The challenge to this vision though is the current overcrowded conditions of CDCR. The passing of AB 900 will assist us in the ability to provide more SAP areas.

The DARS utilizes a best practices approach to selecting sites for beds. The determination is based on the institutions ability to structurally have a SAP with consideration to land space and custodial issues; the type, level, and average length of sentence of the offenders at the institution; the probable issues related to satisfying the minimum required 20 hours of treatment per week; the institution's staffing issues as it relates to custody and treatment staff; and the impact on required programming such as yard, visiting, education, etc.

The COMPSTAT keeps me informed of the number of offenders in treatment and the number of offenders on the waiting list. In one instance in which ASP had a long SAP waiting list, I was able to facilitate a transfer of approximately 100 offenders from ASP to the Substance Abuse Treatment Facility (SATF) for immediate placement into treatment programs.

Medical and Mental Health Care

The entire prison health care system is under federal receivership, and a federal monitor oversees aspects of the mental health system. Earlier this year the medical receiver said Avenal State Prison, which is under your jurisdiction, had suffered a "complete breakdown in medical care coverage." Among other things, he said the problems of the health care system will not be solved without fundamental changes, including ensuring the appropriate number of officers to escort sick inmates to facilities outside of prisons.

24. *What responsibility do you have for implementing directives of the health care receiver? Who do you coordinate with to accomplish this?*

My responsibility for implementing the directives of the health care receiver is ensuring that the institutions, camps, and the CCFs under my mission are assisting the offender's access to appropriate health care services and equal opportunity for care. This includes medical, dental, and mental health services. I also ensure that court mandates and Departmental Settlement agreements are strictly adhered to.

I have participated in tours with the receiver at several of my institutions; SOL, FSP, CVSP and ISP. I collaborate with the federal receiver, the Division of Correctional Healthcare Services, and personnel at the institutions to deliver care to the offenders in the mission based program. I ensure the compliance review process is conducted with regularity to ensure operational compliance.

25. *The receiver's comments about Avenal also cited a lack of physicians at the facility. Are you advised of the receiver's plans to improve the health care facilities at Avenal and are you consulted on how they may impact your overall operation, including other programs independent of health care?*

I am advised of the receiver's plans for health care delivery at ASP. This update comes to me via the Warden who has daily interactions with the health care staff. The Regional Administrator assigned to the Central Valley meets with the health care staff and management at ASP to provide updates, issues, concerns, etc. At the Executive staff meetings held at ASP, all administrative personnel are present and are updated on the issues for all areas of the institution.

Infrastructure

Overcrowding has resulted in heavy usage of certain prison sewage and wastewater systems in some institutions. Estimates for new wastewater facilities to serve the two Susanville prisons – California Correctional Center, which is under your mission and the nearby High Desert Prison – have doubled, according to a legislative report.

26. *Please describe the status of improvements at the California Correctional Center, and what the department is doing to limit costs. If you are not responsible, who is?*

Although the wastewater treatment plant improvements are being managed by the Office of Facilities Management, I am responsible for the overall operations of prisons

within my mission, however, the Wardens maintain the primary responsibility for operations at their prisons.

The current status of CCC is much improved. The institution has installed lockout type flush valves in the Lassen Yard 270 housing units, which are celled living units with two offenders assigned per cell. These valves are programmed to control the amount of flushes per cell, which has resulted in saving an estimated 50,000 gallons of influent per day.

Inmate Ward Labor is performing the work and the institution has not incurred expenses for this project. The effluent spray fields have been expanded from 250 acres to 320 acres. This allows the institution to increase their land application of effluent water. The main flow meter has been cleaned, serviced, and calibrated. This will ensure accurate readings. Shower programs have been implemented, which allows electronic shut-off time late in the evening and early in the mornings to save water. The results of the shower program, and dialogue with the offender population, create a reduction in wastewater.

The CCC has installed low-flow showerheads in the showers of the Level II Dorms, which house offenders in an open design group environment. There have been 104 showers converted to the new low flow showerheads. In addition, flush valves have been changed in the Level II Dorm toilets, which have changed them from 3.6 gallon per flush to 1.6 gallon per flush. All storm drains have been checked to ensure no cross connection to elevate the sewage flows.

These modifications along with the notification to staff and offenders to conserve water have kept the institution from going over the discharge limit of 1.4 million gallons per day. The average for the past 4 months is 1.2 million gallons per day. The CCC will continue with the fiscally responsible plan to conserve water and reduce waste by installing push button controls for sinks in the dorms, push button showers in the dorms, and tamperproof restrictors in both the sinks and showers.

The CCC has taken a pro-active approach to handling a very serious matter, as I expect of all my institutions to do.

Board of Parole Hearings

27. How do you communicate with the Board of Parole Hearings regarding logistical support for the parole revocation and lifer hearings scheduled at your prisons? What processes do you have in place to ensure that this coordination is as seamless as possible to avoid postponed hearings?

My role is to ensure policy is met and to remove any barriers impeding the parole revocation and lifer hearing processes. Weekly meetings are scheduled with representatives from the DAI, Board of Parole Hearings, DAPO, CSU, Victim Services and the Department of Mental health. Staff report on the effectiveness of the current policy and identify any impediments with offender movement for parole revocation and lifer hearings. Staff also address classification processes, hearing backlogs, availability of hearing rooms, attorney/client access, victim, witness process and any physical plant or staffing needs. Deficiencies are immediately addressed via communication with field staff. Mission staff conduct follow-up to ensure expected compliance.

Additionally, the CDCR is implementing the Lifer Scheduling and Tracking System (LSTS) scheduled to be online effective November 1, 2007. LSTS is a statewide networked tracking system that will facilitate the management of the lifer hearing process. The tracking system will provide: a method to track the status and completion of critical events, a method to estimate the number and types of hearings, staff information required to perform their hearing related duties and information required to schedule hearings timely. Effective use of this system will decrease the number of hearings postponements, assist in decreasing the parole suitability hearing backlog and enhance the capability of current parole hearing process to handle future increased caseload.



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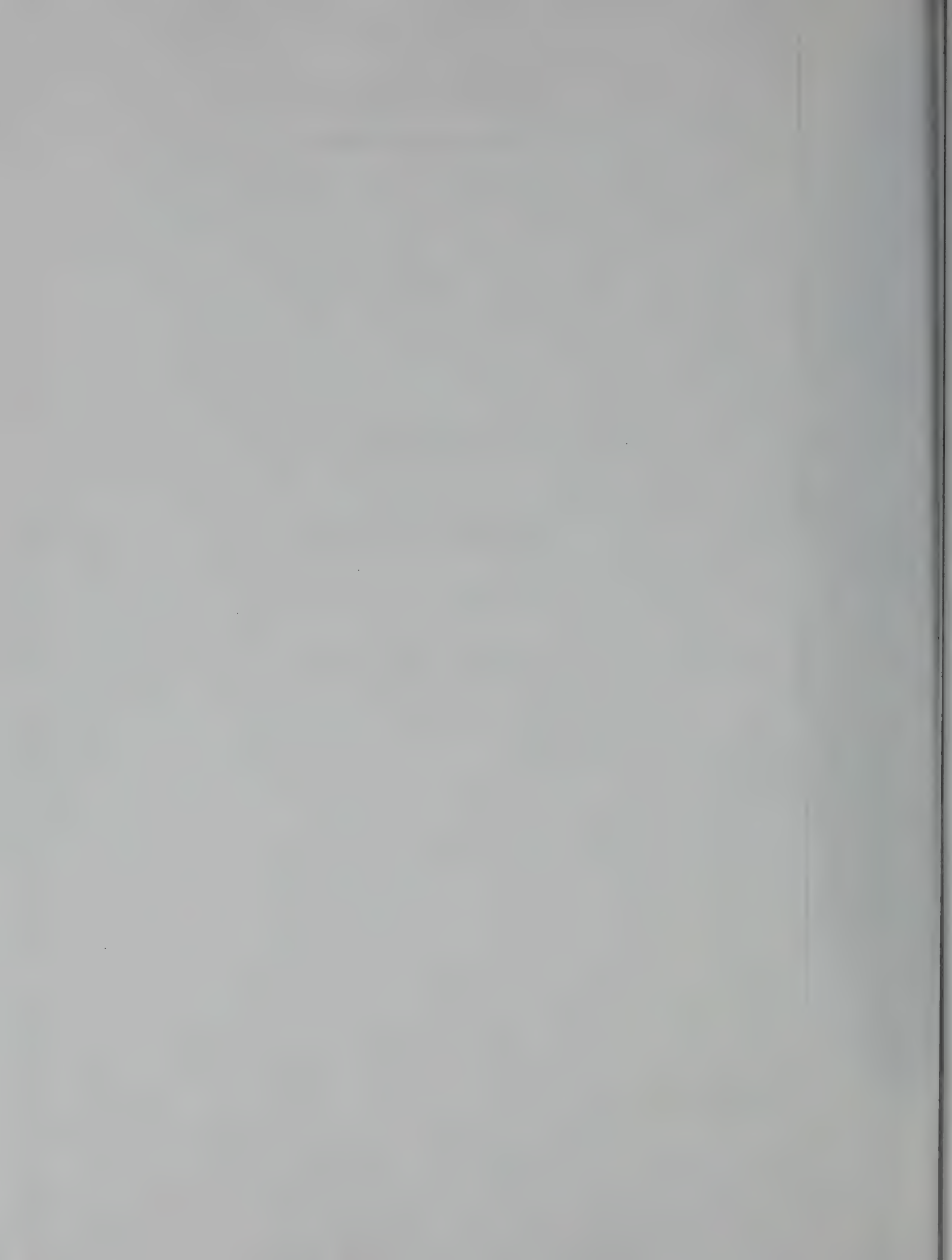
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SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Appointments Consultant

BILL BAILEY, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

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O. GLEN TONEY, Ph.D., Member
Trustees of the California State University

C.C. YIN
Asian Pacific Islander American Public Affairs
Association (APAPA)

LILLIAN TAIZ, President
California Faculty Association

OLGALILIA RAMIREZ, Director
Governmental Affairs
California State Student Association

DAVID A. GILB, Director
Department of Personnel Administration

1 BRUCE BLANNING

Professional Engineers in California Government

2 JON HAMM

3 California Association of Highway Patrolmen

4 KEN MURCH

5 California Association of Psychiatric Technicians, Unit 18

6 AARON READ

CDF Firefighters

7 MITCHELL SEMER

8 Association of California State Supervisors

9 SHERRIE GOLDEN

10 Retired Division, Inc.

CSEA

11 MIKE JIMENEZ, President

12 California Correctional Peace Officers Association

INDEX

Page

Proceedings	1
<u>Governor's Appointees:</u>	
KENNETH S. FONG, Ph.D, Member	
Trustees of the California State University	1
Opening Statement	1
O. GLEN TONEY, Ph.D., Member	
Trustees of the California State University	1
Opening Statement	2
Questions of Both Appointees by CHAIRMAN PERATA re:	
Executive Compensation	4
Salary for University Presidents	6
Preparation of Teachers	7
Questions by SENATOR ASHBURN re:	
Cost of Textbooks	8
Critical Shortage of Nurses and Other Health Care Professionals	10
Nonunion Instructors	10
Need for Educational Systems to Respond to Industries' Need for Graduates with Specialty Degrees	12
Resources	14
Executive Compensation	16
Statements by SENATOR PADILLA re:	
Executive Severance Packages	17



Questions by SENATOR PADILLA re:

Student Fees	18
Support for Increases in Student Fees in Future	20
Possible Conflicts of Interest with Stock Investments	22
University Students Participating in Illegal Downloads, Copying, and Pirating Music	23

Witness in Support of DR. FONG:

C.C. YIN, Chairman Asian Pacific Islander American Public Affairs Association	24
---	----

Witnesses with Concerns:

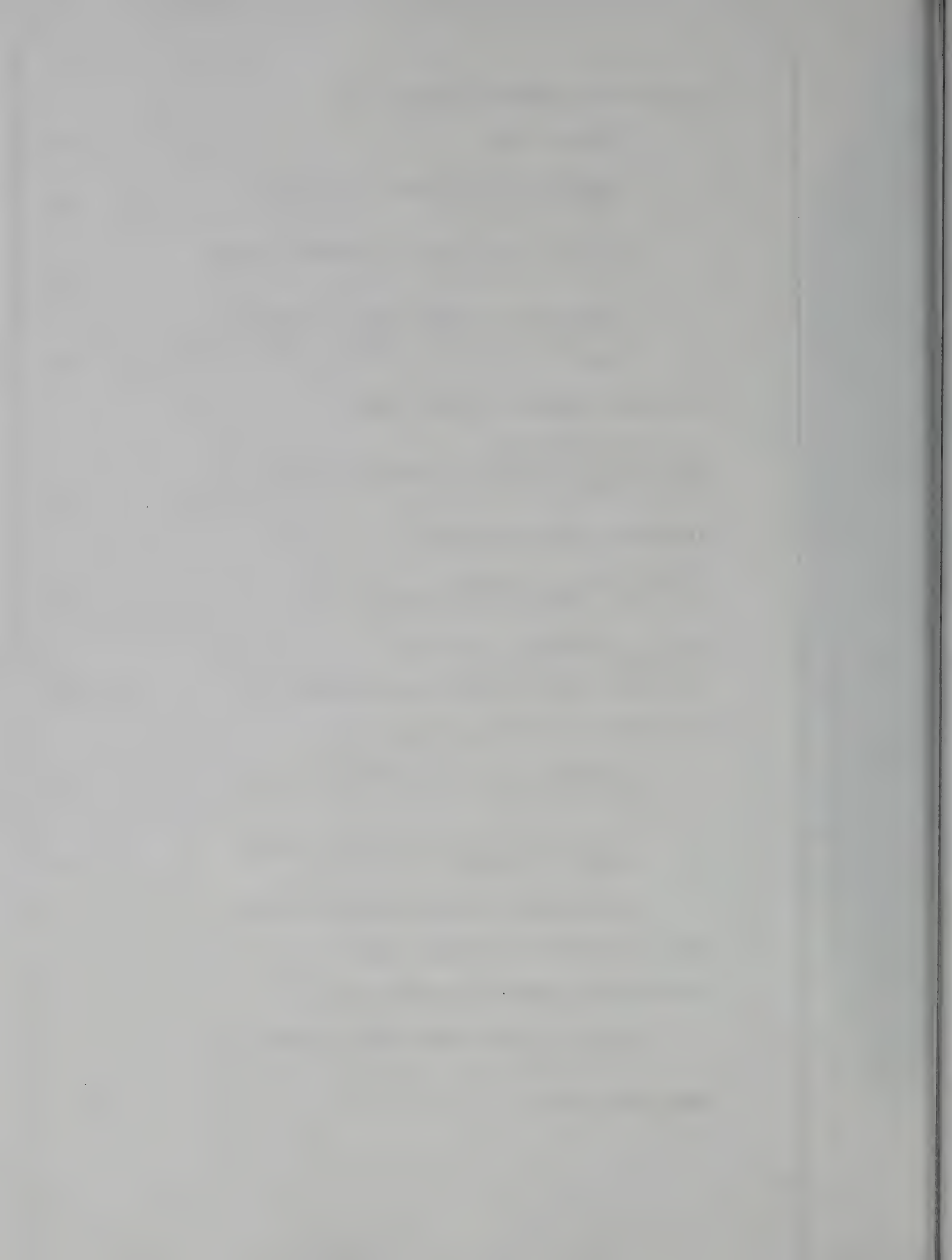
LILLIAN TAIZ, President California Faculty Association	26
OLGALILIA RAMIREZ, Director Governmental Affairs California State Student Association	28

Statements by CHAIRMAN PERATA re:

Appreciate to Both for Agreeing to Be on Board	28
Golden Parachutes Wrong for Public Sector Academics	29
Rising Fees Distance Opportunities	29
Motion to Confirm Both Nominees	30

Statements by SENATOR CEDILLO re:

Wrong to Raise Fees and Salaries at Same Time	30
Committee Action	31



1	DAVID A. GILB, Director	
2	Department of Personnel Administration	32

Statements by CHAIRMAN PERATA re:

3	Many Concerns	32
4	Impediments to Hiring Qualified People	32
5	Growing Gap between Professional	
6	Classifications	32
7	Most Pressing Issue Is Stalemate	
8	Between State and Bargaining Unit for	
9	Correctional Officers	33
10	Need for Leadership	34
11	Impasse	34
12	Top Priority to Modernize Human	
13	Relations System	34
14	Opening Statement	35
15	Modernizing Human Relations System	37
16	Competency-based System	37

Questions by CHAIRMAN PERATA re:

17	State's Ability to Train Employees	39
18	Executive Salaries	40
19	Dealing with Compaction of Salaries	41
20	Role in CCPOA Bargaining Negotiations	42
21	Ability of Stand-in to Make Deals	43

Questions by SENATOR ASHBURN re:

22	Reason for Declaring Impasse	43
23	CCPOA's Offer on April 24 th	44

1	Helpfulness of Declaration of Impasse	
2	To Negotiating Process	45
3	Department's Response to CCPOA's	
4	April 13 th Letter and April 24 th Offer	45
5	Appropriateness of Dialogue after	
6	Receipt of Letter and/or Offer	46
7	How Impasse Occurred	47
8	Coming to Hearing without Correspondence	
9	From Union	47
10	Good Work Done on Performance Review	48
11	Questions by SENATOR CEDILLO re:	
12	Quantitative Measure of Impasse	48
13	Length of Negotiating Sessions	50
14	Four Offers from DPA and No	
15	Counter-offers	50
16	Number of Personal Meetings with	
17	CCPOA	51
18	Plans for Settling Negotiations	51
19	Questions by CHAIRMAN PERATA re:	
20	Use of Word "Hopefully"	52
21	Questions by SENATOR CEDILLO re:	
22	Impact on Need to Recruit More	
23	Correctional Officers	52
24	Basis for Optimism	53
25	Take-aways in Current Proposal	
26	from '02 Contract	54
27	Tremendous Grievance Backlog	55
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Request for Copies of the Four Proposals Submitted to Union	55
Public Sector Negotiations Require Exchange of Proposals rather than Dialogue	56
Number and Nature of Take-aways/Changes in Current Proposal and Impact on Recruitment	57
"Unzipping" the Contract	60

Questions by SENATOR PADILLA re:

Any Other Gestures or Good Faith Efforts Made by DPA to Resolve Negotiations	61
Conducting Background Checks for Correctional Officers	61
Impasse Moves Closer or Farther from Further Federal Intervention	62

Questions by SENATOR ASHBURN re:

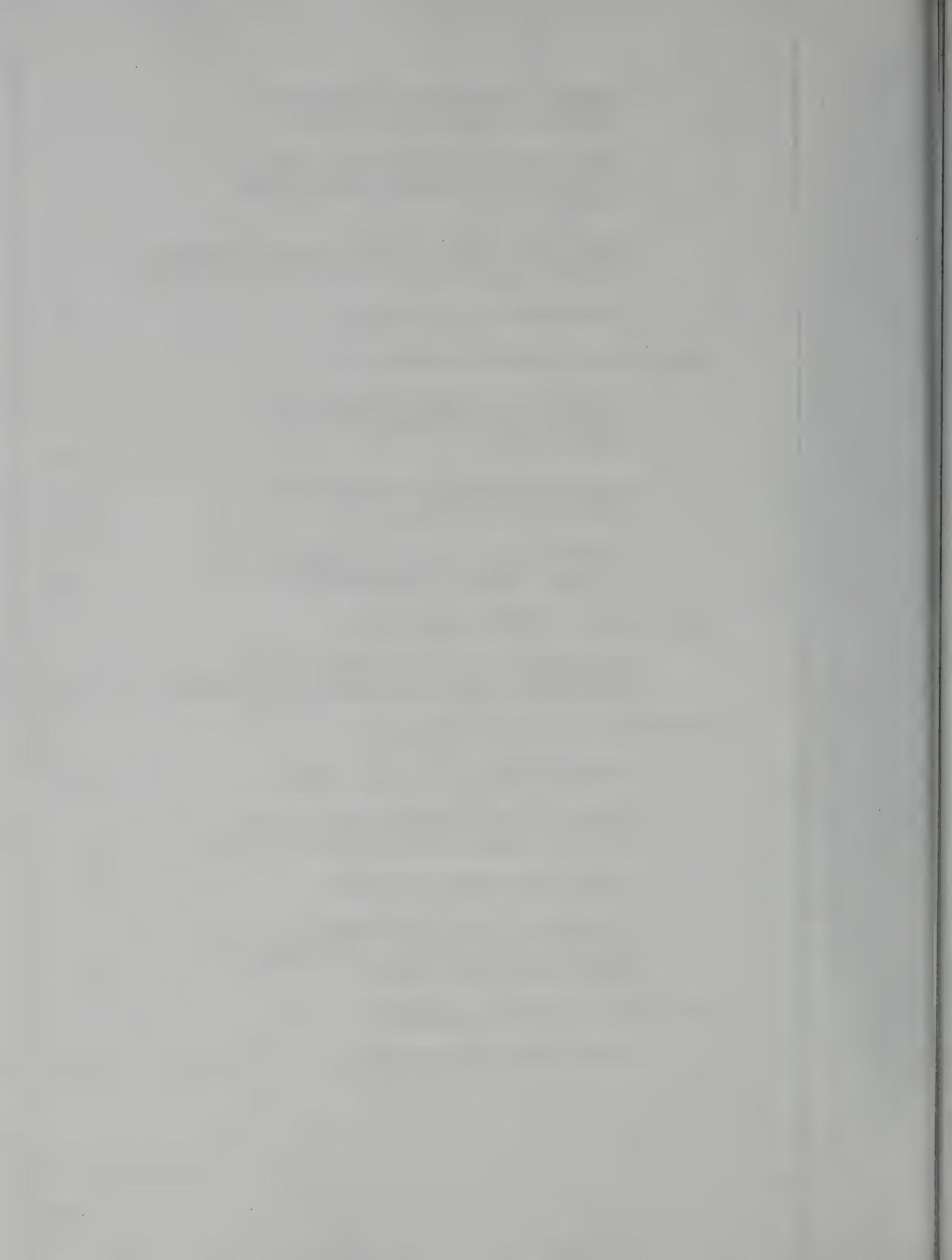
Astounded by Hope that Impasse Will Move State Closer to Federal Intervention	62
--	----

Questions by SENATOR PADILLA re:

Need to Clarify Previous Answer	62
Surprise that Director Has Not Been Further Engaged in Negotiation Process	63
Opinion of "Good Progress"	64
Disagreement with Any Steps or Decisions Made that Led to Where the Negotiations Are Today	65

Questions by SENATOR ASHBURN re:

Contradictory Responses	66
-------------------------------	----



1	Answer to SENATOR PADILLA Different	
2	Than Answer to Same Question from	
	SENATOR ASHBURN	65

Statements by CHAIRMAN PERATA re:

4	Characterization of Disagreements	
5	Between Parties as "on the Margins"	67
6	Previous Agreement that Dollar	
7	Spread between CHP and CCPOA	
	Would Be 6-6-6	68
8	Agreement at Mediation	68
9	Need to Know Where State Is in	
10	Contract Negotiation	69
11	Wondering Why Director Is Not	
12	Across the Table during Negotiations	70
13	Possible Lack of Competency under	
	Reorganization	71
14	Governor's Plan for More Prisoners to	
15	Go to Already Understaffed Institution	71
16	Prison-to-Prison Transfers	72
17	Need to Reach Agreement	73

Witnesses in Support:

19	BRUCE BLANNING	
20	Professional Engineers in California Government	
21	Bargaining Unit 9	73
22	JOHN HAMM	
	California Association of Highway Patrolmen	74
23	KEN MURCH	
24	California Association of Psychiatric Technicians	
25	Bargaining Unit 18	74
26	AARON READ	
	CDF Firefighters	75

1	MITCHELL SEMER	
2	Association of California State Supervisors	76
3	SHERRIE GOLDEN	
4	Retired Division	
5	California State Employees Association	78
6	<u>Witness in Opposition:</u>	
7	MIKE JIMENEZ, President	
8	California Correctional Peace Officers	
9	Association ..	77
10	Extent of GILB's Participation in	
11	Negotiation Sessions	79
12	Inconsistent Information	79
13	Denial of Request for Transparent	
14	Negotiations	79
15	Different Scenario on Negotiations	79
16	DPA's Refusal to Sign Ground Rules	80
17	Over 300 Pages of Proposals	80
18	Surreptitious Audio Recording	80
19	Request for Impasse	81
20	Lack of Counter-offers from Union	82
21	State Not Prepared to Sign	82
22	State's Withdrawal of "Half-baked"	
23	Proposals	83
24	Length of Negotiation Meetings	83
25	DPA's Refusal to Answer Union's	
26	Questions	83
27	Unfilled Information Requests	84
28	Only Three Offers, Not Four	84

1	Second-Class Law Enforcement	85
2	Large Number of Discussions Not	
3	Referenced in Request for Impasse	86
4	Huge Take-aways	86
5	Reason for 700 Grievances Backlog	86
6	Pending Arbitration	87
7	Importance of Post and Bid	87
8	Inability of DPA to Honor Local	
9	Agreements	88
10	Need for Honor and Integrity in	
11	Negotiation Process	89
12	Offer to Step Away from 6-6-6 Formula	90
13	DPA's Refusal to Define Proposals	90
14	Reason GILB Walked Out during	
15	Negotiation Session	91
16	Prison-to-Prison Transfers	91
17	Arbitration Games	92
18	Possible Reason for DPA's Dishonesty in	
19	Dealing with CCPOA	93
20	Motion to Confirm	93
21	Discussion SENATOR CEDILLO	93
22	Response by MR. GILB	94
23	Discussion by CHAIRMAN PERATA	94
24	Request to Put Over Vote on Nominee	95
25	Response by Mr. GILB to Become	
26	Fully Engaged in Negotiations	96
27		
28		

Statements by CHAIRMAN PERATA re:

Committee's Intent to Vote in Two Weeks on Nominee's Confirmation.....	96
Confidence in Nominee.....	96
Withdrawal of Motion to Confirm.....	97
Termination of Proceedings.....	97
Certificate of Reporter.....	98
APPENDIX: Written Responses to Committee Questions By Appointees.....	99

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: Our first two Governor's appointees are Kenneth Fong and Glen Toney, both for the Trustees of the California State University.

Better come up before I say any more. Come together.

Anybody want to start? I don't blame you.

[Laughter.]

DR. FONG: I was told to do a little bit opening statement. Is that all right?

CHAIRMAN PERATA: Please. Better you than me.

[Laughter.]

DR. FONG: My wife and I believe in higher education in our great State of California because both of us are the beneficiaries of the system. My wife now serves as the Foundation Trustee of UC Berkeley, where she graduated from, and I am currently serving as a Trustee at the CSU system, where I obtained my biological degree from San Francisco State about almost 36 years ago.

It was at San Francisco State a professor got me interested in molecular genetics that led me to pursue a Ph.D. degree, which eventually shaped my career in founding a biotech company in Palo Alto, employing some 400 people, including 60-some Ph.D. scientists.

So, this experience taught me how to incubate, cultivate, and grow a biotech company. So since biotech is one of the most rapidly growing industries in California, employing

1 at this point about 60,000 people, and generating hundreds of
2 millions of dollars in tax dollars, I endeavored to leverage my
3 experience to seek greater support for our CSU system from the
4 biotech sector, so that we can provide enough graduate support
5 for this growing industry.

6 A case in point is that when I visit the CSU East
7 Bay campus, they graduate about 26 graduates from the biotech
8 technology department. All of them got employment, except for
9 the fact that they could not find enough resources to graduate
10 more students.

11 In addition, as I said earlier, I believe in the
12 value of higher education. I have worked with San Francisco
13 State in the last ten years to provide scholarships to keep
14 students interested in sciences, and to keep working and
15 disadvantaged students to stay and complete their degrees.

16 So in conclusion, Senator, my general approach as
17 a Trustee is to use my experience and expertise to produce
18 specific and, hopefully, tangible results. I mean results as I
19 have learned it from my past, in my past career.

20 Lastly, I believe a journey started with the CSU
21 system will result in a life-long memory and an education
22 forever cherished.

23 Thank you very much.

24 CHAIRMAN PERATA: Thank you.

25 Yes, sir.

26 DR. TONEY: Mr. Chairman, thank you very much for
27 this opportunity to be here today and convey to you my desire
28 and interest in being a Trustee of the CSU system.

1 I grew up in California. Spent my initial years,
2 early years in Oakland, and then my family transitioned to
3 Oroville, California, Northern California.

4 I spent my formative years in elementary and high
5 school there. My family had modest means, economic means, and
6 college seemed a far reach off for all of us: six siblings,
7 five boys and a girl.

8 But fortunately for us, Chico State was nearby.
9 And given the structure of Chico State, the financial
10 requirements, we could afford that. So, our father and our
11 parents developed a plan whereby all six of us would attend
12 college and graduate from the university.

13 All six of us are products of the CSU system. It
14 worked very, very well for my family, producing an admiral in
15 the United States Navy, two engineers, one executive with a
16 Swedish company, a head of U.S. operations, and another
17 executive with a Japanese automobile company, and myself. This
18 has worked very well.

19 I had the opportunity to work in private industry
20 for a number of years, for Applied Materials and for Lockheed
21 Missile and Space. I also spent part of my years working in the
22 school systems. I was head of EOP at San Jose State, and I also
23 was the Assistant Superintendent of Schools for Palo Alto School
24 District and Ravenswood School District.

25 So, given my background and experience, and
26 understanding both of education and private industry,
27 particularly in the high technology area, where I worked very
28 closely with schools and universities to help improve their

1 scientific curriculum, and math, science, material sciences, I
2 look forward to having the opportunity to participate and bring
3 my expertise and background to help further deliver the quality
4 of programs that we deliver in the CSU.

5 CHAIRMAN PERATA: Thank you.

6 I believe I knew the admiral.

7 DR. TONEY: Okay.

8 CHAIRMAN PERATA: Couldn't be a coincidence.

9 Well, we're very pleased to have both of you here
10 and the interest that you've attached to being on the Board of
11 Trustees.

12 I guess the first question, not a big surprise --
13 Charley, if you want to walk outside for a minute -- is about
14 executive compensation, unfortunately. Sometimes it appears
15 that that's the only thing we're doing right now in both the CSU
16 system and UC.

17 So, what's your take on that? What are your
18 thoughts about what should be delegated to the Chancellor?

19 What matters should you decide as Trustees?

20 DR. TONEY: From my perspective, our role as a
21 Board of Trustees is primary policy, and to oversee the
22 implementation of that policy to ensure that things are
23 consistent with the policy that we -- we approve.

24 We hire the Chancellor, and we hire the
25 presidents. And we participate in the hiring of all of the
26 presidents.

27 In fact, I just completed involvement in the
28 hiring of the President of Dominguez Hills.

1 So, we have the opportunity to look at all the
2 information, all of the comparative data in the marketplace,
3 produced and presented to us by the comprehensive group of
4 consultants that look at salary, benefits, et cetera. Compare
5 them with like colleges across the United States, and then we
6 make a decision about that.

7 Our knowledge of what compensation exists for
8 executives and faculty members give us a fairly good background
9 in what it ought to be.

10 Trying to recruit someone to the CSU, if they
11 come from a comparable system in executive ranks, as you know,
12 the data shows that we're about 40 percent below those schools
13 that we compare ourselves with. So, we have to come up with
14 some kind of creative means to attract those people.

15 Also in 1997, when we put a cap on the amount of
16 salary that executives could put into -- as a part of the
17 pension program, that also put us at a disadvantage because
18 recruiting anyone from outside the state did not have that cap
19 as a variable for calculating pension.

20 So, we had in place at the time a transition
21 program to help us kind of work that issue and continue to
22 attract and secure top-flight educational leaders.

23 There were some aspects of that program that did
24 need to be changed, so we have done that. As of November, we've
25 looked at it, and we've made some decisions that there are
26 aspects of that program that needed to be changed, but we still
27 needed that program to give us the leverage to be able to hire.

28 So, if we can continue to look at and oversee the

1 policy as it's implemented, on a periodic basis delve a little
2 deeper into things, and look and see how things are actually
3 operating on the ground level, and then make necessary changes,
4 I think we'll be fine.

5 DR. FONG: My answer to that is that we should
6 make the process transparent. I feel a Trustee is to make the
7 policy, and make it very clear policy.

8 And then a committee, including the Chancellor,
9 should be able to determine the theme, the guidelines, what
10 level of compensation.

11 We should be able to attract the best possible
12 candidate for the job. So -- so, we should not be just meddle
13 in the little thing here and there, because I think our whole
14 objective is to hire the best qualified individual for the
15 job, and within the policy that's set by the Trustees.

16 CHAIRMAN PERATA: What's the going rate for a
17 president now?

18 DR. TONEY: For us --

19 CHAIRMAN PERATA: College president, not our
20 President. He's overpaid.

21 MR. TONEY: For us, in and around about \$200,000
22 a year.

23 SENATOR ASHBURN: President Pro Tem.

24 CHAIRMAN PERATA: What a time for you to wake up.

25 [Laughter.]

26 DR. FONG: Do you want the range? I understood
27 it's for our presidents at CSU is from about 200,020 to
28 200,080. That's the range.

1 CHAIRMAN PERATA: What are we paying for a
2 football coach?

3 [Laughter.]

4 DR. TONEY: We wish we had the money to pay for a
5 football coach.

6 CHAIRMAN PERATA: I another question I wanted to
7 ask, and we've always looked to the state college system for
8 preparing teachers to enter the public school system.

9 A lot of mandates, like No Child Left Behind,
10 that are provided by really smart people in Washington, but it
11 ultimately it comes down to the classroom. And it comes down to
12 either kids know how to read, or they get left behind, like
13 they're looking in a rearview mirror.

14 What is your sense about how we're doing?

15 I notice you were silent on the credentialing
16 programs when we asked it, but you suggested that changes are
17 being made?

18 DR. TONEY: Yes.

19 CHAIRMAN PERATA: What's going on?

20 DR. TONEY: A couple of things.

21 As you know, we have the EAP program. And having
22 the EAP program has allowed us to work --

23 CHAIRMAN PERATA: Maybe for the benefit of people
24 who just wandered in, tell them what that means.

25 DR. TONEY: That's Early Assessment Program.

26 CHAIRMAN PERATA: Tell them what that means.

27 DR. TONEY: Okay. The Early Assessment Program
28 was developed by the CSU and the K-12 system in the State of .

1 California, put in place to allow us to have diagnostic
2 information, tests on students' skills in math and reading.

3 And then with those skills, once we find out
4 where they are, where their level of competency is, we now have
5 programs for students at the 12th grade that they can take to
6 help remediate those issues, so that when they graduate and
7 apply for the CSU, hopefully they will be at the level where
8 they will need little to no remediation once they come to our
9 system.

10 CHAIRMAN PERATA: What about teaching teachers to
11 teach reading?

12 DR. TONEY: We're doing that as well. We have a
13 program on that. In fact, much of what we're learning from the
14 EAP program, we're what we call closed loop, sending that data
15 and information back into our credentialing program, so it'll
16 help us with the preparation of teachers.

17 CHAIRMAN PERATA: Okay.

18 Senator Ashburn wants to ask you a question about
19 the cost of textbooks.

20 SENATOR ASHBURN: Actually, yes.

21 Textbook costs for all students, from the
22 elementary grades on through the community colleges, and the
23 university, and the CSU, ought to be a big concern for all of
24 us. And so, Senator Perata is right.

25 Do you have some thoughts about the ways in which
26 policies can be set by the Trustees in dealing with that for the
27 benefit of the students, both in the weight of these documents,
28 but, you know, in bringing them into a format that is far more

1 relevant to the way people receive information today?

2 DR. FONG: As a matter of fact, the textbooks,
3 most of them are written by a professor. And, of course, are
4 promoted by the publishers.

5 So, I don't think we have, you know, any mandate
6 on the pricing of the textbook.

7 And I know that the bookstores run somewhat
8 independently. So, they have to take care of their own profit
9 and loss. In some sense though, the textbook are one of the
10 avenues asked for -- for the bookstore. So, if the bookstore is
11 ever to make any profit, I think some of the profit will be
12 coming back to help the students.

13 So, that's my understanding.

14 DR. TONEY: Textbooks are primarily in the
15 purview of the faculty.

16 What we've done is led an effort to put in place
17 a committee that's comprised of faculty, staff, and students to
18 study the textbook situation and come back with recommendations
19 that we can take to help us manage the price of textbooks. And
20 hopefully, what we'll be able to do on a collective system-wide
21 basis, enter into agreements to purchase textbooks. We can help
22 reduce the price.

23 SENATOR ASHBURN: Part of the issue is that we
24 need to move to new formats. Most people receive their
25 information today off of a computer, and textbooks could be
26 placed onto more modern formats that weigh virtually nothing.
27 They can be updated with great ease. Duplicate copies would
28 have no expense. We wouldn't be chopping down trees and

1 increasing greenhouse gas emissions.

2 So, for all those reasons, I would urge that you
3 take a look at that subject, as I'm encouraging others to do
4 so.

5 The other subject I wanted to talk to you about
6 has to do with the circumstance where we have work shortages in
7 California. Jobs that everyone recognizes are critically
8 needed, and yet we don't seem to be able to turn out enough
9 graduates with those necessary credentials or degrees in order
10 to fill the jobs that are there. And nursing just jumps out as
11 a statewide problem, a nationwide problem.

12 And when I meet with hospital administrators,
13 they tell me, "We are willing to subsidize the cost of the
14 salaries of the instructors. We are willing to participate with
15 the CSU to graduate more students. We are willing to have the
16 clinical work that needs to take place in our medical facility
17 as part of their program. We're willing to accommodate that."

18 And yet, we have a shortage. I know in the case
19 of Cal State Bakersfield, the reason we have a shortage is that
20 the faculty union will not allow nonunion instructors on the
21 campus to teach the classes. That's not right.

22 If we don't have enough instructors, then we need
23 to get enough instructors.

24 Do you have any thoughts about that?

25 DR. FONG: As I know that the Long Beach Hospital
26 have committed \$15 million over a period of five years, support
27 the nursing program. So, that's one of the very good step in
28 the right direction.

1 So, I believe that we can work out this kind of a
2 problem with the union, you know, getting more qualified
3 teachers to come in to graduate more nursing students. I think
4 this is an urgent issue that we have in mind.

5 DR. TONEY: I have a couple of responses.

6 One, I think that the situation that you
7 described, Senator, no longer exists. We can now bring in folk
8 who are not -- meet what the faculty feel are adequate
9 credentials to teach in the nursing program. So, that is a fact
10 today.

11 Secondly, the cost is almost prohibitive for us,
12 because they have to have certain clinical kinds of experiences.
13 You've got to have a faculty that's, you know, adequately
14 prepared and credentialed to teach, et cetera.

15 But even more importantly perhaps, is that these
16 are high paid people, nursing faculty.

17 So, we've recently lost seven to the UC system of
18 our nursing faculty because they can pay for money than we can.

19 But we're very happy that clinics, hospitals, et
20 cetera, are working with us to help us. And they are, in fact,
21 providing instructors for us in several locations.

22 And we're pleased that we got the extra \$3.7
23 million in the final budget, because we're going to use that
24 money to get even more nurses involved.

25 Much of the hospital and clinic resources are
26 spent on scholarships and helping to pay the salaries of the
27 staff people on loan to us.

28 We recognize with you that this is a very severe

1 problem for us, as we see the population not only of our state
2 but of our nation aging. And we know that's a critical issue,
3 right along with teachers, right along with scientific, you
4 know, prepared students.

5 SENATOR ASHBURN: And I wanted to expand in
6 example beyond just nursing. Nursing jumps out because it is
7 such a critical need, but there are many other specialty degrees
8 that are desperately needed in our state, and our educational
9 system doesn't seem to be able to respond to the need.

10 And for the life of me, I can't figure out why
11 that is so.

12 Yes, I can understand people being stolen away at
13 higher paying positions. But at the same time, when you have
14 partnerships, as we have -- again back to nursing and
15 medicine -- where the hospitals are paying a great deal more
16 for out-of-state visiting nurses because of the shortage in our
17 own state, it is money ahead for them to put the dollars into
18 either subsidizing the faculty instructors, or to provide the
19 clinical settings.

20 The problem that I see is that everything seems
21 to be geared for a bunch of adults, and I don't see a whole lot
22 of focus on, you know, what are the students that we need? What
23 are their needs? And what are the jobs that are crying out for
24 us to meet them?

25 As Trustees, I see that, at least from my
26 perspective, as something where you can have a profound impact
27 in the policies of the system.

28 DR. FONG: I think you're right.

1 I mean, for example, in where we are right now,
2 Silicon Valley, one of the biggest employers is Google. They
3 couldn't find enough those kind of people who can, you know,
4 help them grow the company, so they have to steal it from some
5 other company like a Yahoo or Microsoft.

6 So the question is, do we graduate enough of
7 these people that can help these kind of new industry, so to
8 speak, creating more job and more employment?

9 And this is not easy kind of an answer to it,
10 because industry is cyclical. That means to say, I heard some
11 faculty say that, "Okay, if you give me a lot of money to start
12 a new program, what happened is a downturn which you experienced
13 in Silicon Valley in the year 2000."

14 So, those are the kind of thing they actually
15 got, you know, got to have some really careful planning about
16 it.

17 Secondly, as far as starting new industry, like
18 maybe Yahoo, or maybe some of the other high tech industry and
19 biotech, and this is a mandate mostly of the UC system. And if
20 you talk with the CSU system, I think there are some other need
21 we got to -- we got to fulfill.

22 Suppose other Genetech is started like, which is
23 the other phase, which is usually helped by the UC system. And
24 the CSU system have to come in to help them in the process
25 engineering. Those are kind of job they needed. And clinical
26 trial people, which they needed. And manufacturing kind of job
27 they needed. But really, they can't find those kind of people.

28 And when I talked to the East Bay campus, they

1 have a program which graduates, as I said, 26-some students
2 every year. They got all employed. Before actually they got
3 graduated, they got grabbed up by the company.

4 But the problem is that they just don't have
5 enough resources to produce more of these kind of graduates.
6 So, it come back again and again, it's a resource problem that
7 we have. If we have more resources, I think we can graduate
8 more of these kind of people that cater to the needs of the
9 growing industries.

10 SENATOR ASHBURN: By resources, I assume you're
11 talking more money.

12 I mean, has anybody looked at how much money the
13 CSU has, and how it spends the existing dollars to see that
14 we're producing the degrees in the areas where we have a need,
15 as opposed to those areas where we have staff with vested
16 interest?

17 DR. TONEY: Yes, we've looked at the budgets.
18 We've calculated and looked at how much money we're spending for
19 different aspects of our curricula.

20 Key, however, is that what we're doing is, we're
21 growing the university at a fairly rapid rate. And a great deal
22 of it, base on what the requirements are and some on what the
23 Legislature has asked us to do.

24 Last year, we grew by more than the two percent.
25 We grew by an additional almost 7,000 students. And so then we
26 don't get the funding to support those students.

27 So, somehow we have to take money from different
28 programs to make-do with that. So then, if you've got a program

1 like a high need program, you're trying to fund that program
2 while still take care -- taking care of these extra students
3 until we get resources to be able to serve them adequately.

4 But I think we clearly are committed to try to
5 work with areas where we can add to our resource base, like
6 industry, like in the nursing program, where they so sorely need
7 additional talent that they're willing to step up and help us
8 with financial resources and facilities as well.

9 So, we need to continue to try to pursue those,
10 while also working with you to see what we can do to help
11 achieve the adequate financing for the programs.

12 DR. FONG: Let me add a little bit about the
13 resources.

14 I have been talking to some of the companies in
15 the Bay Area as well as the CSU. You know, we have three
16 campuses: East Bay, San Francisco, and San Jose. And they all
17 have very nice biotech program there. So, this is my area of
18 expertise.

19 So, I have to talk with them, and they're very
20 enthusiastic whether or not we can work together, you know, to
21 put some program together so they get the funding from the
22 biotech company where they would like, you know, us to help them
23 to graduate more students for their needs.

24 So, that's another way to answer your question,
25 get more resources from outside.

26 SENATOR ASHBURN: In partnerships.

27 DR. FONG: In partnerships, right.

28 SENATOR ASHBURN: Absolutely. And I think you're

1 going to find a very receptive participation with that kind of
2 partnership, because there are many businesses and industries
3 that don't have sufficient workers to do what they are
4 attempting to do.

5 I just want to go back to Senator Perata's
6 question about executive compensation. I'm not quite sure I
7 understand your answer.

8 Certainly, we all want to hire the best people in
9 important positions, but presidents of universities and faculty
10 members should not be getting sweetheart arrangements. They
11 ought not to be making compensation that is unrealistic to the
12 positions paid for others in public service.

13 They are not corporate CEOs. If they want to be
14 corporate CEOs, they can go do that. Of course, a lot of these
15 folks, professor-type people, couldn't make it outside of the
16 protective structure of the university.

17 CHAIRMAN PERATA: Are there any professors
18 here?

19 SENATOR ASHBURN: So, I think -- it's just my
20 opinion -- that your role is to set a compensation structure
21 with limits, and then you turn that over to your Chancellor.

22 But to have the Trustees simply say, "Well, we
23 got to pay what we've got to pay to get the best we can get."
24 I'm telling you, that's what we've been doing, and it's wrong.

25 DR. TONEY: I submit we have limits, Senator.

26 What I do submit, however, is that we've been
27 doing a very good job of working a very fine line of trying to
28 get these highly skilled and competent people that we want to

1 have for this system, and have them give up opportunity to make
2 even more money somewhere else.

3 That's my view.

4 SENATOR ASHBURN: I get it.

5 Thank you.

6 CHAIRMAN PERATA: I guess it's that old saw that
7 those that can't, teach. And those that can't teach go into
8 politics.

9 [Laughter.]

10 CHAIRMAN PERATA: Senator Cedillo, do you have
11 any questions?

12 SENATOR CEDILLO: I guess I'll have to find a new
13 career, because a college president's going to be off the list
14 now; it won't be worth it.

15 CHAIRMAN PERATA: That's right; scratch it.

16 SENATOR CEDILLO: No questions.

17 CHAIRMAN PERATA: Alex?

18 SENATOR PADILLA: Let me start off with a comment
19 on the point that Mr. Ashburn left.

20 Having sat on the Education Committee and
21 participated in the special hearing we had on the executive
22 compensation package issue for both CSU and UC, what was
23 additionally troublesome was not just -- well, it wasn't so much
24 the compensation packages that executives earned while working
25 for CSU, but the severance packages upon leaving the CSU and
26 being paid very generously, often already having found a new
27 position elsewhere.

28 Questionable in the sense of amounts and

1 significance of the work they were still providing to the
2 institutions in California.

3 But we won't get back into that. I think that my
4 colleagues here did a good job.

5 But in my mind, it's related, if nothing else,
6 budgetarily. What made that issue a little tough to stomach was
7 knowing that, while we were having the discussions and the
8 debates how to rein in the executive compensation packages and
9 accountability thereof, we were having debates -- and this
10 year's another budget year -- where student fees are proposed to
11 increase.

12 So, how do we, as policy makers for the State of
13 California, look to you to resolve these issues, where students
14 fees are going up, making access to college less affordable,
15 while executive compensation packages go up.

16 Let's just set aside the executive piece here.
17 But I'd love to get both of your thoughts on student fees, level
18 of student fees as they are currently, projections going
19 forward, and how we maintain as accessible an institution for
20 the students of the California?

21 DR. FONG: Okay. There's a 10 percent increase
22 in the student fee for the CSU system, from 2500 to about 2700.

23 And personally, I don't like the increase. But
24 in order to get those funding to maintain a quality of education
25 at CSU system, we have not found a better solution to it, as far
26 as I know.

27 If you compare the fee the student paying right
28 now with all the comparable institution across the nation, the

1 number I got was that the range is about \$3300-9,000 for
2 comparable institution. That means to say, the lowest -- the
3 institution paying the lowest is still more expensive than our
4 CSU system here.

5 So actually, if I were to look at, if I may, a
6 cost effective base, I think that CSU education is still the
7 most cost effective for the dollar we're paying right now.

8 So, as I said, I don't like the increase. Maybe
9 perception-wise of over the last five years, a period of time,
10 maybe the increase, you know, perception-wise a little bit too
11 high, but as I said, we are still paying less than the lowest of
12 the comparable university.

13 DR. TONEY: It seems for me, I think that it's
14 appropriate for students to pay a certain amount of money on
15 their -- for their education. And I think that where we have it
16 pegged, the Board of Trustees has a position of -- of targeting
17 one-third of the cost for students.

18 And the more needy of our students, we use the
19 university-wide grant to provide them resources for scholarship
20 and grant money so they aren't affected by it.

21 So, with the recent increase of \$252 per student,
22 those who are most needy among our students won't have to pay
23 that \$252. That can be covered by the grant money.

24 And we use a third of the money we get for the
25 two percent money that you give us for the increase in student
26 enrollment, as well as we use the portion of the fee, the
27 increase in fees, to help offset that.

28 So, I think those students who are needy, and who

1 have drive, and want to attend university will have the
2 resources to do that.

3 To me, the underlying issue is, is that we have
4 several different constituencies that are interested in higher
5 education. We have you as the Legislature. We have private
6 industry, who sees us the source of most of their workforce. We
7 also have parents and students who are interested. And then,
8 we've got to address the needs of all of those groups and try to
9 make a good decision to maintain high quality education for
10 those students.

11 Our only source of revenue, however, is
12 yourselves and students. And so, when you underfund us, we have
13 no other alternative but to look and see where can we get some
14 additional money?

15 We can try to -- try to deal with -- extract the
16 most quality that we can from those teachers, and from those
17 presidents, and from the faculty and staff, and still serve
18 those students.

19 That's the situation we're in now, with an added
20 6,000 students that we thought that we would get support for,
21 and we don't.

22 So, what are we to do? Not try to serve them?
23 Or, do we increase their cost just incrementally, so that we can
24 still try to maintain, as best we can, a very high quality
25 educational system.

26 SENATOR PADILLA: Have you engaged in the
27 discussion already whether you'd be foreseeing increases next
28 year and the year after? Or, would you support increases in the

1 next couple of years?

2 DR. TONEY: I can tell you what I personally
3 would do.

4 If we can't work with you all to try to have you
5 help us address this issue so that we can keep this state number
6 one, we have no alternative but to look at it.

7 Now, it's not my preference to do that. However,
8 it's backing us into a corner, in my opinion. I mean, we
9 already tap private industry. When I was working for Applied
10 Materials, I gave millions of dollars to the CSU to help support
11 programs. So, we tap them already.

12 So what we need is, either we control the
13 students that we admit, which is not, I think, in the best
14 benefit for the state, to put a shut-off or cap on student
15 admissions.

16 Our population is changing radically in this
17 state. We need to be admitting more students, serving more
18 students. So, I don't see that as a solution.

19 SENATOR PADILLA: Okay.

20 DR. FONG: I agree with him most what Glen said,
21 you know. We do not get the kind of support that we should have
22 to maintain a core education. And we have to do something that
23 can, we believe, to maintain the best we can as far as the
24 education is concerned.

25 Personally, I am a -- as I said earlier, I'm the
26 beneficiary of the CSU system. I got a very good education.
27 I'm very, very grateful for it, and I believe that we should
28 continue to do so.

1 SENATOR PADILLA: Different subject area.

2 The area of conflicts of interest, you both have
3 submitted Form 700 as part of the consideration for serving in
4 these positions. You both have significant stock investments.

5 Have you discussed already with staff how you go
6 about ensuring that you avoid conflicts of interest?

7 DR. TONEY: I've had two discussions with the
8 staff, legal staff, and my own accountant about this.

9 We are satisfied so far that, A, I understand
10 that to the degree that I can make the decision today.

11 And as the landscape changes relative to my
12 investments, I'll be having further dialogue with them to ensure
13 that I stay within the law.

14 DR. FONG: The stock investment is all controlled
15 and managed by the manager, like Goldman Sachs and others. I
16 have actually little say, you know, in what company they would
17 invest in. It's a portfolio-kind of thing.

18 The other I have is a more private company that,
19 as I said, you know, I'm investing in the area of biotech, so
20 investing in those private companies. Has nothing to do with,
21 you know, public company.

22 CHAIRMAN PERATA: Goldman Sachs is going to buy
23 the State Lottery.

24 DR. FONG: Yeah, right.

25 CHAIRMAN PERATA: That's where your money will
26 be.

27 SENATOR PADILLA: I asked the question just to
28 ensure that the proper safeguards and protocols are in place --

1 DR. FONG: You're absolutely right.

2 SENATOR PADILLA: -- to help you avoid that
3 situation.

4 Just one last area of questioning, and it's of
5 significant importance to an industry that is critical in the
6 district that I represent, Los Angeles, generally: the
7 recording industry.

8 And the issue of concern being that of illegal
9 downloads, and copying, and pirating of music, and of the
10 contents that's made readily available now over the Internet,
11 with a big source of that activity coming from college
12 campuses.

13 Is this a topic of conversation at the board
14 level? And if so, what's being done to address it?

15 DR. TONEY: I've not been involved with that
16 conversation at the board level.

17 Clearly, I think it's an ethical issue, and the
18 university ought to be concerned about ethical issues. So, it's
19 a conversation we might have with presidents, a general
20 conversation about that, and leave it to them in their purview
21 to put in place any programs that might address it.

22 DR. FONG: This is a very good question, and I've
23 thought about it myself when I discuss it with my son, you know.
24 He unload everything, you know.

25 SENATOR PADILLA: Please remember you're on the
26 record.

27 DR. FONG: Yes.

28 So, I'm not involved in this kind of discussion,

1 so I can't make a comment on that at this point.

2 SENATOR PADILLA: It is something I would look
3 forward to working with both of you on, both for the sake of the
4 students themselves, but also for the university.

5 If you stop and think about it, they're using
6 university computers and technology infrastructure --

7 DR. FONG: Right.

8 SENATOR PADILLA: -- for this type of activity.
9 There will an interest in potential liability here for the
10 university and for the state.

11 DR. TONEY: I concur.

12 SENATOR PADILLA: Thank you.

13 CHAIRMAN PERATA: Do either of you have family
14 here today?

15 DR. FONG: My wife intended to come here last
16 time.

17 CHAIRMAN PERATA: That's why we postponed it.

18 [Laughter.]

19 CHAIRMAN PERATA: Anybody like to come up?
20 Orphans?

21 Yes, sir, please.

22 MR. YIN: Your Honor and Members, I'm C.C. Yin.
23 I am a professional engineer.

24 CHAIRMAN PERATA: Oh-oh, couldn't make it in the
25 private world, huh?

26 [Laughter.]

27 MR. YIN: My place is McDonald's, why I come here
28 today as the Chairman of APAPA, American Public Affairs

1 Association, State of California.

2 I'm here to speak in sport of Ken Fong for the
3 position.

4 And I have known Ken for over ten years
5 personally, professionally, and in community level, knowing his
6 passion and his support of higher education, and his personal
7 credentials and business speak for itself.

8 And he's very heavily involved in all level of
9 education, not only higher level, you know: high schools,
10 colleges, and also the community area.

11 For those, I think he's best qualified for that
12 position.

13 Thank you.

14 CHAIRMAN PERATA: Any trans fats in that tie?

15 [Laughter.]

16 MR. YIN: This is no trans fat. This is all
17 vegetable oil.

18 When I'm special hungry, I look at this tie. It
19 can make me feel full.

20 [Laughter.]

21 SENATOR PADILLA: How many calories are in that
22 tie?

23 MR. YIN: They save a lot of money, you know.
24 When you don't have to really eat, you can look at tie.

25 [Laughter.]

26 CHAIRMAN PERATA: That's a good idea. I'm sure
27 McDonald's would like to hear about your idea.

28 [Laughter.]

1 MR. YIN: That's why we had a Salad Day about a
2 month ago here, to show our support of education and a healthy
3 lifestyle.

4 CHAIRMAN PERATA: Thank you.

5 MR. YIN: Thank you, sir.

6 DR. FONG: Mr. Yin is the owner of 21 McDonalds.
7 But he told me that it's not 21; it's 22.

8 So, he's a great community leader here in the
9 valley here.

10 CHAIRMAN PERATA: The other professor?

11 What did you want to do with your life before it
12 collapsed?

13 [Laughter.]

14 MS. TAIZ: I was going to be CEO of something,
15 but I just couldn't make it.

16 Senators, my name is Lillian Taiz, and I am the
17 President of the California Faculty Association.

18 And I'm -- the California Faculty Association is
19 not opposing these nominees, but we did want to come and express
20 some concern about the direction that the Board of Trustees of
21 the CSU is going.

22 And we share some of the same concerns that I've
23 heard expressed here today, about the juxtaposition of
24 presidential salary increases, and perquisites with increases of
25 student fees.

26 I had the great honor to be with 25 or 30
27 students just yesterday at an awards dinner, and listened to
28 each and every one of them tell me horror stories of not being

1 able to get the classes that they need to graduate, not being
2 able to get enough staff to answer the questions that they
3 needed answered on the campuses.

4 And so, one of our concerns is that the Board of
5 Trustees get out on the campuses like we do, down and dirty with
6 the folks that are working on the ground, to really hear what
7 our priorities are, where we think the resources should be
8 going.

9 And so, when things like this happen, it gives
10 the appearance of, if not the reality of, not caring how people
11 are living their existences on the campuses, and how this is
12 slowing people's ability to get to graduate and move on to do
13 all the wonderful things that we want them all to be doing,
14 particularly in the face of recent reports that suggest that we
15 are not turning out all of the college graduates that we need to
16 be turning out.

17 That is a particular concern of ours because of
18 the impact of student fees, because the bottom line is, when the
19 fees go up, notwithstanding the efforts made to provide
20 financial aid, the students work more, 30 hours, 40 hours.

21 I didn't work 30 or 40 hours when I went through
22 the CSU, and I got to do a lot more studying. And as a
23 professor, I see the consequences of the amount of time they
24 have to spend working.

25 So, for us, we would -- we really encourage, and
26 we do hope, that the Trustees will come out to the campuses and
27 talk in unscripted, unorchestrated conversation with the folks
28 on the campuses.

1 And that they will join us, as we've been
2 pounding the doors of all the folks in this building over the
3 years, since about 2002, when we took such a hit to our budget,
4 that you all will help us bring more resources back to the CSU,
5 and talk really about the consequences to the state and to the
6 system for not really pouring more money into the system that
7 does so much good, not just for individuals.

8 I'm a poster child for system: community
9 college, CSU, and UC. It -- it not only enhanced my life, the
10 life of my children, but it enhances the whole state.

11 So, I hope that the Trustees will work with us
12 more. California Faculty Association has the motivation and the
13 desire to work with all of you in rebuilding the CSU.

14 CHAIRMAN PERATA: Thank you for being here.

15 Anyone further?

16 MR. RAMIREZ: Hello. My name Olgalilia Ramirez.
17 I am the Director of Governmental Affairs for the California
18 State Student Association.

19 We're not in opposition or anything, but we're
20 also concerned with the rising cost of student fees. And
21 hopefully, you can work with the students.

22 That's all. Thank you for your time.

23 CHAIRMAN PERATA: Thank you.

24 Anyone here in opposition?

25 I'd like to thank both of you, first of all, for
26 agreeing to do what you're doing. I don't think there's too
27 many of us in this building that don't recognize that the future
28 of this state is as good as our education system.

1 I must say that compensating someone for running
2 a college campus at \$200,000 a year doesn't sound to me like
3 it's exorbitant.

4 I don't know if you've heard the name Billy
5 Donovan, but he's the basketball coach for the University of
6 Florida. And he either has or has not today turned down a
7 five-year, \$27-and-a-half million contract to coach the Magic.
8 I guess Florida's probably paying him more, but that's a fine
9 academic institution.

10 So, our whole society is sort of out of kilter.

11 But it pains me when I see even the competition
12 that we have for coaches, and then, you know, there is a lot
13 made out of the executive compensation.

14 But things like golden parachutes for public
15 sector academics is, in my judgment, just flat wrong. If
16 somebody won't come to work for us because they won't get a
17 parachute, then they probably should be better off working in
18 Idaho, or -- well, Bakersfield is in California, I'm sorry.

19 [Laughter.]

20 CHAIRMAN PERATA: I don't know what you do about
21 it, but I do think that the perception of what we do here is a
22 lot of it.

23 And I also know that fees, unless there's a
24 strong outreach to kids who are just on the margins, unless we
25 really make it clear to them what's available financially, the
26 rising fees translate as distancing further the opportunity.

27 So, I know you probably get lots of good advice.
28 I'm finished giving you ours, but you have to listen to ours

1 because we have votes.

2 We will entertain a motion to approve.

3 SENATOR ASHBURN: I'll make the motion.

4 SENATOR CEDILLO: I would just attach myself to
5 your comments.

6 It's not the salaries, or I don't find them
7 offensive when you think about what the challenges are, and the
8 job duties, what's required, and then the competition and the
9 need for leadership.

10 But clearly, clearly, someone was not thinking.
11 You can't raise fees and then raise salaries. You're leading
12 with your chin, or you're just asking to get smacked. You're
13 just asking for it. It's that simple.

14 Somebody should think about that. You have to
15 think about all these various problems.

16 You know, I kind of dislike this conversation
17 because we are having conversation here like we are a very poor
18 state, and not like we're the fifth or sixth largest economy in
19 the world, and not like we don't need to be planning for ongoing
20 global competitiveness.

21 But we sit in here and we say, you know, if I've
22 got to cut from here, then I have to put it someplace else.
23 We're all in this room acting like we don't have any money. I
24 mean, it drives me crazy. That's a separate speech for a
25 separate.

26 DR. TONEY: Thank you.

27 SENATOR CEDILLO: I would be thoughtful about the
28 next time you're going to increasing somebody's salary, what

1 you're doing throughout the entire system, the entirety: from
2 the person who brings the keys, to the people who teach and
3 clean the classroom, to students, et cetera.

4 MR. TONEY: Okay.

5 CHAIRMAN PERATA: Just be thankful that you're
6 not Regents. Imagine what we're going to do to them.

7 [Laughter.]

8 CHAIRMAN PERATA: Also, just by way of keeping
9 your interest until later, we have three people appearing for
10 confirmation today, and they're all Republicans.

11 I know people sometimes wonder if the Governor
12 ever appoints any Republicans. Well, today he did. Let's see
13 how you fare.

14 Call the roll, please.

15 SECRETARY WEBB: Cedillo.

16 SENATOR CEDILLO: Aye.

17 SECRETARY WEBB: Cedillo Aye. Dutton.

18 SENATOR DUTTON: Aye.

19 SECRETARY WEBB: Dutton Aye. Padilla.

20 SENATOR PADILLA: Aye.

21 SECRETARY WEBB: Padilla Aye. Ashburn.

22 SENATOR ASHBURN: Aye.

23 SECRETARY WEBB: Ashburn Aye. Perata.

24 CHAIRMAN PERATA: Aye.

25 SECRETARY WEBB: Perata Aye. Five to zero.

26 CHAIRMAN PERATA: Five-zero, congratulations to
27 both of you.

28 DR. TONEY: Thank you very much.

1 DR. FONG: Thank you, Senator.

2 CHAIRMAN PERATA: All right, our last is Dave
3 Gilb, the Director of the Department of Personnel
4 Administration.

5 Mr. Gilb. You are either fortunate or
6 unfortunate of being in the wheelhouse of a lot of the concerns
7 that we hear every week as people come before us, and we have
8 talked about that privately. I'm sure you've shared that. Our
9 concerns have been shared with other Members here.

10 A huge percentage of the state workforce is
11 either at or beyond retirement. The training budgets have been
12 cut, so there's little emphasis on developing future managers.
13 Local governments and, embarrassingly, even the federal
14 government are now paying higher salaries. State government
15 policies are so cumbersome it's hard to find qualified and hire
16 qualified people.

17 We confirmed Mr. Robert Garcia from Social
18 Services. And, you know, I don't know if you guys have had a
19 chance to talk, but I would certainly talk with him.

20 He was just pointing out how ridiculous it is,
21 what have to go through in order to hire people.

22 Then, you know, we've always been concerned about
23 the growing gap that exists between certain professional
24 classes, like scientists and physicians, that seems to get wider
25 and wider.

26 We are in this business of making laws, and
27 unfortunately, you have to be able to field a team to enforce
28 them. So, we can do a lot of stuff in the area of science, and

1 technology, and medicine and other things.

2 I was just reading about the moth the other day,
3 whatever the moth's name is, Gypsy. In all events, we have a
4 huge industry in this state. In fact, agriculture is second
5 only to Corrections as being one of the California's largest
6 industries.

7 If you don't have the appropriate people to deal
8 with the concerns, like the infestation of a moth that could
9 destroy your agricultural economy, then you're in a world of
10 hurt.

11 I don't want people working for this state who
12 just couldn't get a job somewhere else, or couldn't make it in
13 the private world.

14 But probably the biggest and most pressing issue
15 right now is the stalemate that we have between the state and
16 the bargaining unit for the correctional officers. We've been
17 spending too much time in this session talking about the dire
18 state of our Corrections system. We took action recently that a
19 lot of us did not take with -- we didn't quite have our tongue
20 in our cheek, but we didn't think that we were necessarily going
21 to cure the problem by the action that we took.

22 But one thing that I am absolutely a great
23 believer in is that I don't think you can manage most things,
24 most organizations, without the cooperative and respectful
25 relationship with your workforce. I am absolutely convinced you
26 cannot do it in our prison system.

27 As I said on the Floor of the Senate, I would not
28 go into a prison in California right now. I would not. And if

1 I did go, I wouldn't be looking for the wardens to protect me; I
2 would be looking for the people on the tiers.

3 I don't know all that's gone on. And our job
4 here is not to negotiate a contract, and I want to make that
5 very clear.

6 I respect collective bargaining. I've taken
7 enough crap over the years for supporting it, so I'm not asking
8 to do your job, nor do I want to tell the members of the
9 bargaining unit how to do theirs.

10 I do think, however, that leadership is necessary
11 right now. You're in the position where I know we've gone to
12 impasse, and then the question is: Okay, how did we get from
13 there to an impasse when people are saying, "Wait a minute. We
14 don't think we're at an impasse."

15 But at the end of this hearing, I'm going to come
16 back to this question, and I want to ask you what you're
17 prepared to commit to, trying to get this deal done?

18 And I'd like to know -- I mean, if you can't say,
19 if the answer lies above you, I'd like you to be honest enough
20 to say that. I'm not interested in torturing you if I can find
21 somebody else to beat up on.

22 I'm going to come back to that, but I want to go
23 through a couple of questions that we've made notes on over the
24 time.

25 You've said your top priority is to modernize the
26 human relations system. What do you mean by that? Are you on a
27 clock? Are there going to be some deliverables?

28 MR. GILB: Yes, I believe so.

1 First of all, I want to thank you for having the
2 opportunity to --

3 CHAIRMAN PERATA: I didn't give you a chance to
4 open, did I?

5 MR. GILB: No. May I?

6 CHAIRMAN PERATA: I've been doing this for so
7 long.

8 [Laughter.]

9 MR. GILB: Let me just say a few words. And
10 Senator, I appreciate that.

11 CHAIRMAN PERATA: Sure.

12 MR. GILB: Well, I do want to thank you for the
13 opportunity to appear, and it is an honor to be here and ask for
14 your support for my confirmation.

15 You've outlined very succinctly what some of the
16 challenges are. They are there. We've all had discussions
17 about it, and I am, you know, very excited about them. I think
18 that my background prepared me very well to meet them.

19 Just to tell you a little bit about that, I have
20 had over 30 years of experience in labor relations and
21 personnel. I go all the way back to the passage of the state's
22 collective bargaining law. I participated in some of the
23 formation of the first bargaining units and bargained and
24 participated in some of the first collective bargaining
25 agreements. So, I do have a lot of history that I bring to this
26 job.

27 I've served as a labor relations officer for the
28 Department of Mental Health, for the Department of Developmental

1 Services. I was the Assistant Director of Labor Relations for
2 the Department of Corrections for awhile. I have served at DPA
3 under previous Governors where I was the chief negotiator for
4 the Highway Patrol, for the Corrections units, for the
5 psychiatric technicians, for the nurses, and probably a few
6 others, Forestry, probably a few others thrown in along the way.
7 So, I'm very, very familiar with the state's collective
8 bargaining system.

9 Most recently, as the Governor -- when the
10 Governor asked me to come back as his Chief of Labor Relations,
11 both in that job and as the Director, I think I successfully led
12 the conclusion of 19 collective bargaining units, all within
13 fiscal parameters. I concluded all very, very successfully in a
14 situation that did start out, at least some of the unions, in a
15 very, very charged environment.

16 And finally, I served as a labor mediator for
17 five years with the State Mediation and Conciliation Services,
18 and I resolved hundreds of labor disputes in cities, and
19 counties, and school districts, and special districts, and
20 transit districts.

21 So, the discussion and the questions that you may
22 have about where we're at with the Corrections unit, I'm very,
23 very happy to answer.

24 But I do, like you, believe in the collective
25 bargaining process. It's one of the best ways to -- to manage a
26 large workforce, and particularly in the public sector.

27 As you pointed out -- and I'm trying to get to
28 the answer of your question now, if I could, sir -- we have to

1 modernize this civil service system that we have. It's old, and
2 it's creaking, and it's falling apart. And program managers are
3 having a hard time managing under it.

4 And this is a responsibility that's shared not
5 only with the Department of Personnel Administration, but with
6 our colleagues in the human resources community over at the
7 State Personnel Board, who are primarily responsible for
8 recruitment, for testing, and examinations.

9 And we all agree, and we have all come together
10 and agreed that it's time to change. It's time for our agencies
11 to come together.

12 We have 4,000 classifications in state
13 government, 200 different pay differentials. I can't even tell
14 you what we're -- we're paying some people out there.

15 You mentioned the scientists. We have, I think,
16 3100 scientists in the bargaining unit, and I think there's 300
17 classifications in that bargaining unit.

18 Now, that may make sense for some people; it may
19 not make sense. It doesn't make a lot of sense to me. And we
20 need to start moving from a very, very narrow, what we call it
21 -- what's currently called a duties-based system to a
22 competencies-based system.

23 And we're very appreciative that the Department
24 of Personnel Administration sponsored a BCP. It's really for a
25 joint project to work with the State Personnel Board to move
26 from our current narrow duties-based system to a system that --
27 that tries to select people, instead of narrow job categories,
28 but for broad occupational groups based on their skills, their

1 knowledge, their abilities, and their competencies, and then to
2 compensate them based on growth, and development, their skills,
3 additional education, what they bring, the value they bring to
4 the job.

5 This is a system that has been under way in the
6 federal government. It has been tried in the State of
7 Washington. It's been tried in many, many other states. It's
8 been done in the private industry.

9 So, we are not plowing new ground here.

10 CHAIRMAN PERATA: Are you stealing some ideas?

11 MR. GILB: Absolutely, as many as we possibly
12 can.

13 We're pleased. I think that one of the ways
14 we're trying to run this program is, we're talking about having
15 a joint governance board with the State Personnel Board,
16 including Finance, and we've been talking to private industry
17 representatives who've also expressed a desire to help serve as
18 advisories on this project and have been through this.

19 It's not an easy thing to do. It will take
20 time. We do need to have valid job-related competencies
21 established that'll meet the test of the courts and be a
22 credible program for the -- for the State of California.

23 One thing I am -- I'm particularly excited about,
24 and it's valued about -- in order to do this, you have to go
25 through and identify what those competencies are. It's
26 absolutely impossible to do it without a cooperative
27 relationship with the state employee associations. They know
28 best, and the workers know almost best on what's necessary for

1 them to do their jobs, along with the supervisors.

2 So, Senator, that's probably an answer to your
3 first question.

4 We do appreciate the funding that the Legislature
5 gave us -- I don't believe it's in committee -- to start
6 launching this project. We are ready to go. We are -- have a
7 pretty good idea of how we want to proceed. We intend to be
8 sitting down with the state employee organizations. We have had
9 some informal discussions and try to roll this out.

10 CHAIRMAN PERATA: Well, I've been around here for
11 a lot of launches. I've just never seen anything come back, so
12 I'd like to see something, even if it's crashing.

13 MR. GILB: I agree.

14 CHAIRMAN PERATA: You know, we spend a lot of
15 time around the state, state employees, dealing with harassment
16 training and ethical training, but it seems that there's a great
17 paucity in training people for things that they're hired to do.

18 How are we doing with that?

19 MR. GILB: We need to do better. Unfortunately a
20 couple of years ago, the Department of Personnel Administration
21 closed down the State Training Center. We thought we offered a
22 lot of good, excellent courses.

23 However, we do think that --

24 CHAIRMAN PERATA: Why did that happen?

25 MR. GILB: It did happen under my predecessor.
26 I'm not one hundred percent sure of all the details. I do know
27 that there was a cash flow problem in -- in offering the courses
28 and funding the positions. We were faced with a situation where

1 we simply couldn't do it. We couldn't make money, and it
2 couldn't sustain itself. It had to be a self-supporting
3 operation.

4 We have -- much of the vacuum, however, has been
5 picked up by, at least right now, by Cooperative Personnel
6 Services, CPS. That is a Joint Powers Agreement. It is a, you
7 know, governmental -- quasi-governmental entity. It is offering
8 actually a greater selection than we had, and it's offering it
9 at a slightly lesser cost. So, they were able to do what we
10 were not able to do.

11 Where we are -- I think we can do more is in
12 monitoring such things like our supervisors getting the training
13 that's required and the Legislature's mandated, the 80 hours of
14 training.

15 Is the course work itself appropriate for the
16 competencies and the skills that we need? We have to do a lot
17 more digging in that area.

18 I'm pleased to tell you the other day I met with
19 the -- with the Foundation for Community Colleges. We were
20 talking not only about the internship program, but the
21 modernization effort. And they were rather excited about the
22 prospects of what we were -- we were doing, and were very
23 interested in launching a stronger partnership with us to
24 develop the type of curriculum that would recruit and provide
25 the skills for the employees of the future.

26 CHAIRMAN PERATA: Last year we had some things
27 occur that, for the life of me, look like sort of a randomness
28 that we approach it: increasing salaries for exempt employees.

1 The Governor's Office has got a lot of attention for this.

2 Of course, he's fortunate because he can pay
3 people out of another account. Not everybody can do that.

4 We've heard a lot about the compaction. I know
5 that in some areas you have people who are on the org. chart
6 underneath, making a higher salary than the guy at the top,
7 maybe in your own agency, I don't know.

8 How do you deal with that?

9 MR. GILB: Well, first of all, I think we have
10 begun to address that, and you're right. I think the -- a
11 couple of appointments and the executive compensation that were
12 made kind of reflected the fact that we had a system that simply
13 wasn't responsive. We couldn't recruit qualified executives.

14 You mentioned the fact that 35 percent of the
15 state workforce is going to be eligible to retire. That
16 percentage increases when you go up the ranks of your management
17 ranks. We need to bring them on board, and we are not
18 competitive.

19 I mean, the editorial in one of the newspapers,
20 when they talked about executive compensation, when we did raise
21 it, basically said it was a good thing because California was
22 trying to get by on the cheap.

23 And we -- we are committed, the administration is
24 committed to trying to do this in a more orderly fashion. We
25 did raise the salaries for all -- all the directors, the agency
26 secretaries. We did so in a way that instead of establishing
27 one salary, we established a little bit broader range to give
28 the Governor a little bit more authority to recruit from local

1 governments, which is our primary competition for public sector
2 managers. And the administration's made clear to me that they
3 want to move, continue to move down, raise the cap so we don't
4 have the compaction, and we're currently working on the rest of
5 the executive team.

6 So hopefully, Senators, we're going to roll it
7 out in a little bit more systematic fashion than we have in the
8 past.

9 With respect to the rank -- to other supervisors,
10 we need to do more.

11 [Appointee then takes a sip
12 of water.]

13 CHAIRMAN PERATA: I bet you wish that was vodka.

14 [Laughter.]

15 MR. GILB: Gin.

16 We recently did go through and try to identify at
17 least where supervisors were less than five percent. That's not
18 an adequate differential, but at least we have raised dozens and
19 dozens of supervisors' salaries. So, we think there are very
20 few, if any, situations out there where supervisors are making
21 less than their subordinate. There may be some, and we always
22 try to work with the supervisory organizations to try to bring
23 those to our attention. We are working on that, Senators.

24 It does take money to do. It's going to take
25 ourselves a little while to crawl out of this hole.

26 CHAIRMAN PERATA: When you sit down, let's use
27 the CCPOA example, what was your role in that? Were you at the
28 table?

1 MR. GILB: In previous?

2 CHAIRMAN PERATA: Now.

3 MR. GILB: No, I haven't been at the table
4 actually bargaining the contract. I've been, as the Director, I
5 have a Deputy Director of Labor Relations. I have a bargaining
6 team that does it, but certainly, of course, I oversee these
7 negotiations, and I -- I give them some policy direction and ask
8 the administration for policy direction.

9 CHAIRMAN PERATA: When your stand-in sits at that
10 table, authorized to make a deal?

11 MR. GILB: Yes.

12 CHAIRMAN PERATA: At that point?

13 MR. GILB: Yes.

14 CHAIRMAN PERATA: Okay.

15 SENATOR ASHBURN: Question.

16 Why was impasse declared?

17 MR. GILB: Well first of all, Senator, when we
18 petitioned the Public Employment Relations Board, if you read
19 our pleadings, we did not ask for a, quote, "impasse" in the
20 sense that we are looking -- we've given a last, best, and final
21 offer. We asked for help.

22 And the Dills Act is a little different than some
23 of the other collective bargaining statutes. And it says: When
24 the parties have been bargaining for a reasonable period and are
25 not making progress, either side can ask for a mediator. And
26 that's what we did.

27 PERB saw fit to declare, as I read it in the
28 paper, that there's some initial impasse, small "i" impasse.

1 We're deadlocked. We need help.

2 But they also made clear that they did not think
3 we were at the point of being at, quote, "last, best and final"
4 impasse, ready to impose a contract. We are not interested in
5 doing that.

6 We want an agreement. We've being deadlocked for
7 a long time. We've been bargaining over a year.

8 We felt it was appropriate to use the process in
9 the statute to get that help and get the help of a mediator.

10 SENATOR ASHBURN: I want to be careful, because
11 your confirmation should not be tied up in any current
12 negotiation, but the current negotiation is very significant.
13 And there are things that have occurred that I think it's
14 important that we understand your thinking about.

15 So, as I understand it, there was an offer made
16 by CCPOA on April 24th. So, I would be interested in your
17 reaction to that offer, and the timing between whatever
18 consideration or determination you made on that offer and the
19 decision to file for impasse which, you said just now, is not
20 impasse -- but if there's a difference, I don't know what that
21 is -- on May 10th?

22 MR. GILB: I'm not -- I do not know, at least
23 don't have the April 24th letter in front of me. I have looked
24 at most of the correspondence going back and forth.

25 SENATOR ASHBURN: You came to the hearing --

26 MR. GILB: I believe I know which one is --

27 SENATOR ASHBURN: -- knowing there's opposition,
28 and you don't have a copy of the letter?

1 MR. GILB: No, I don't, sir. But I believe I
2 know what's -- what's contained in there.

3 I believe, as I recall that letter, we did not
4 regard that as an offer for a contract. We did not see that as
5 an offer that would move the parties forward. And we chose to
6 use the statutory procedure that the -- that exists.

7 SENATOR ASHBURN: Do you think that what's
8 occurred with this Declaration of Impasse, which is not impasse,
9 is helpful to the process?

10 MR. GILB: Yes, do I, sir. I have been a labor
11 mediator. I have resolved very difficult labor disputes.

12 I believe in the process, and I believe the
13 process works best when the parties are operating under the
14 generalized authority of the Public Employment Relations Board,
15 which really kind of -- sort of assumes some oversight over the
16 negotiations at this point.

17 We're obligated under the law to participate in
18 this process in good faith. So, is the union.

19 We have been struck. We have deadlocked. We
20 felt it was appropriate to ask for help, and that's what we did.

21 SENATOR ASHBURN: Let me go back to the question
22 I just asked you.

23 There's clearly a letter dated April 13. There
24 was an offer made at the board meeting of April 24th. There's a
25 letter dated April 13.

26 Were there any questions asked of those who made
27 this offer that questioned whether it was a real offer or not an
28 offer?

1 MR. GILB: Senator, the negotiations have been,
2 I'm sorry to say, I think very, very hard. And I don't want to
3 cast aspersions on my -- on my colleagues across the table. It
4 has been very hard.

5 We've had situations where -- where, on some
6 points, the association asked us to take an offer to their
7 membership. Then they asked us to not do that.

8 We are interested in getting an agreement and
9 getting the negotiations in a structured format that allows
10 dialogue to occur. Dialogue has not occurred. We need good
11 dialogue.

12 SENATOR ASHBURN: Wouldn't dialogue have been
13 appropriate?

14 If a letter is received, it's from the group that
15 you're having negotiations with, and you're not sure whether it
16 constitutes an offer or not, would dialogue have been
17 appropriate on that letter or not?

18 MR. GILB: Senator, it may have been. Perhaps we
19 could have done a better job, but we have attempted to have
20 face-to-face negotiation with CCPOA over a year. It has not
21 worked very, very well, sir. And again --

22 SENATOR ASHBURN: You're in negotiations.
23 Negotiations are hard. We stipulate to that. We stipulate to
24 your vast experience. No question about your experience or
25 background.

26 A letter's received in the midst of
27 negotiations. There either was a question raised or not raised
28 about whether it constituted an offer.

1 No action was taken. And instead, this non-
2 impasse was requested.

3 How did that come to happen?

4 MR. GILB: Well, Senator, maybe we should have --
5 we could have done a little bit better job in doing that.

6 SENATOR ASHBURN: Who made the decision?

7 MR. GILB: Senator, I -- I probably did, sir.

8 SENATOR ASHBURN: Were you being directed by
9 someone other?

10 MR. GILB: No, sir. I reviewed the
11 correspondence. I reviewed the history of going back and forth.
12 And I genuinely believed that we were not at a point where I
13 felt the negotiations were moving forward.

14 SENATOR ASHBURN: So, you saw nothing in the
15 letter, April 13. It's three full pages plus a part of a page.
16 You saw nothing in the letter that constituted any opportunity
17 for further discussion?

18 MR. GILB: No, I didn't, sir.

19 SENATOR ASHBURN: Did you ask a question back:
20 "We got your letter. I don't see anything here. Is there
21 something I'm not seeing?"

22 MR. GILB: There was a series of correspondence,
23 sir, that -- that went back and forth.

24 I do apologize. I don't have them in front of
25 me, but I have been --

26 SENATOR ASHBURN: Which, I've got to say,
27 astounds me.

28 I can't believe you could come to the hearing for

1 your confirmation, knowing that this issue is a hot topic that
2 you're probably going to get a question or two about, and you
3 don't bring the documentation you need.

4 I mean, I can understand why a negotiation
5 wouldn't work if you didn't bring your papers.

6 There are other areas that I'm interested in.
7 You've hit on the topic of the turnover that we're going to and
8 we are experiencing in our management ranks. We're going to
9 need a serious plan for dealing with that.

10 There was good work done on the Performance
11 Review. Now, I know that there were parts of the Performance
12 Review that folks couldn't go, but there was good work done in
13 terms of recommendations, looks at private sector, looks at
14 other governmental entities on ways to transform California's
15 employment system.

16 I urge you to pick up the best of those ideas and
17 not to back away from them.

18 MR. GILB: Certainly, Senator. I'm very
19 interested in doing that.

20 SENATOR ASHBURN: That's it for now.

21 CHAIRMAN PERATA: Senator Cedillo.

22 SENATOR CEDILLO: Along the same lines, back to
23 impasse in this hard bargaining over a year.

24 You stated a reasonable period and not making
25 progress. That's the basis for impasse.

26 I'm just interested for you, or whoever declared
27 impasse, what was the measure? What were the number of
28 meetings? What was quantitative activity that leads to that

1 point?

2 MR. GILB: Senator, we met on many different
3 occasions. I believe there were only -- over 20 sessions.

4 The employer made at least four offers to CCPOA.
5 The last offer we made was for a four-year agreement. I think
6 the terms are fairly well known. We think it provides for some
7 generous pay raises.

8 And during that process we received no counter
9 proposals from CCPOA.

10 We want to reach an agreement. Bargaining
11 requires the parties to engage to reach that agreement.

12 We didn't see that happening. We believed that
13 it was futile to continue without the assistance of a mediator,
14 and that's what the statute provides. We just did not think we
15 were making sufficient progress.

16 SENATOR CEDILLO: So, over a period of a year,
17 you had 20 meetings?

18 MR. GILB: Something like that, sir, yes.

19 SENATOR CEDILLO: So it's like a meeting every,
20 what, how frequent is that? Every two weeks?

21 MR. GILB: Yes, Senator. And when things aren't
22 happening during the negotiations, sometimes there's no need to
23 meet.

24 SENATOR CEDILLO: I'm trying to --

25 MR. GILB: Yes.

26 SENATOR CEDILLO: I mean, I hear you saying that
27 as a conclusion or as a statement. I want to see --

28 MR. GILB: Yes.

1 SENATOR CEDILLO: -- what composes that? How
2 long were these sessions?

3 MR. GILB: Sometimes they didn't last very long.
4 They were so -- they were so hard. They were so rancorous that
5 they concluded with either us or them.

6 SENATOR CEDILLO: How long, though, were these --

7 MR. GILB: I think some of them may have been
8 very, very short.

9 SENATOR CEDILLO: Ten minutes?

10 MR. GILB: Yes.

11 SENATOR CEDILLO: An hour? A day?

12 MR. GILB: An hour; 10 minutes. Sometimes they
13 lasted a day. Sometimes they may have lasted a little longer.

14 It is -- in my view, if I can comment, it's a
15 sign of how hard it has been and why we needed help.

16 SENATOR CEDILLO: We've established that.

17 You've given four offers to them?

18 MR. GILB: Yes.

19 SENATOR CEDILLO: No counter-offers?

20 MR. GILB: No.

21 SENATOR CEDILLO: Other than the letter that you
22 didn't consider a counter-offer?

23 MR. GILB: Yes.

24 SENATOR CEDILLO: All right.

25 So, the person who declared impasse did so on the
26 basis that there were, you asserted, 20 sessions, four offers,
27 no counter-offers?

28 MR. GILB: Yes.

1 SENATOR CEDILLO: And rancor in the engagements?

2 MR. GILB: Yes.

3 SENATOR CEDILLO: Why didn't you intervene?

4 MR. GILB: Senator, I --

5 SENATOR CEDILLO: You have experienced 300
6 resolutions, 19 interventions since your return. This is
7 problematic, but this is also so important to the state.

8 MR. GILB: Senator, I believe that I did. And,
9 you know, negotiations not only happen at the bargaining table.
10 They happen away from the table, and there are discussions.

11 And I did have meetings with CCPOA personally on
12 many, many different occasions.

13 SENATOR CEDILLO: How many?

14 MR. GILB: Oh, I couldn't tell you. Seven,
15 eight, nine meetings.

16 And I personally went over to deliver our
17 four-year offer with the union as a sign of the serious intent
18 of this administration to reach an agreement. Unfortunately,
19 bargaining didn't conclude very well that day.

20 SENATOR CEDILLO: So, you had seven, eight, or
21 nine direct meetings with the leadership or bargaining committee
22 of CCPOA?

23 MR. GILB: At least.

24 SENATOR CEDILLO: Then you personally delivered
25 the last offer?

26 MR. GILB: Yes.

27 SENATOR CEDILLO: At this point, what are the
28 plans for settling this?

1 MR. GILB: Hopefully, we will get into mediation.
2 Hopefully, we will have a structured process that allows
3 dialogue to occur. It is important to talk to the union.

4 CHAIRMAN PERATA: Could I just ask, the word
5 "hopefully." It's kind of like a religious term.

6 You're in a position. What would not make that
7 happen?

8 MR. GILB: Oh, it can happen. It will happen. I
9 mean, even though you're in mediation, the parties retain a
10 great deal of control over how they wish to work with the
11 mediator. So, We can do that.

12 CHAIRMAN PERATA: Sorry.

13 SENATOR CEDILLO: I understand your kind of
14 limited role.

15 But from your limited role, what are your
16 thoughts on what's the impact of all this activity on our need
17 to recruit more officers, our need to get away from overtime as
18 the basis for a work experience and life experience for the
19 guards?

20 MR. GILB: Well, we do need to do that. There is
21 a general shortage of public safety officers in California.

22 Our offer that we have out on the table when we
23 conclude an agreement, and I'm optimistic that we will, even as
24 it sits will increase the base pay of a correctional officer, I
25 think, up to around 18 percent over four years.

26 We have provided other incentives for shift
27 differential, for weekend differential. We have provided for
28 increases in the uniforms. We have provided special recruitment

1 and retention differentials for some of the harder to recruit
2 prisons. We do need the recruit them.

3 It is expensive, but we're willing to make the
4 investment because we do have to recruit correctional officers,
5 particularly in light of some of the prison reform bills that
6 have been passed.

7 We need an agreement.

8 CHAIRMAN PERATA: We're going to have to pause.
9 Evelyn's going to drop dead here if we don't give her a
10 ten-minute break.

11 [Thereupon a brief recess
12 was taken.]

13 CHAIRMAN PERATA: Reconvene.

14 Senator Cedillo, do you want to continue?

15 SENATOR CEDILLO: I appreciate your optimism. We
16 like to hear that.

17 I'm interested in what's the basis for that?
18 What gives you optimism? What series of events, meetings,
19 exchanges of papers, circumstances, information we know or you
20 can share with us or you can't share with us?

21 MR. GILB: A couple of things.

22 A, having been a labor mediator, I am the eternal
23 optimist, and I have been through difficult negotiations before.
24 I have been through difficult negotiations with my colleagues in
25 CCPOA.

26 We have what we think is a good offer out there.
27 It does spend a significant amount of the money over four
28 years. It's -- the employees deserve it. We think it's a pay

1 program that -- that should help us recruit, retain.

2 And we think that some of the changes that we are
3 seeking in return are reasonable and can be worked with, with
4 the union.

5 So, I think we have an outline that, with good
6 dialogue, should secure an agreement.

7 SENATOR CEDILLO: I only have maybe two more
8 questions.

9 You went at great pains to, as you should have
10 and as we should all do, when a labor relations negotiation is
11 closed, both parties have a duty and are duty-bound to promote
12 the contract, to make it work, and to support each other in a
13 constructive way. So, you went to great pains to defend the
14 contract when it was signed in '02.

15 Are there in this proposal, because it just seems
16 to me we had a great contract in '02, if you move forward, and
17 you're going to enhance it, then we would be further along.

18 So the question is, are there take-aways in your
19 proposals that take away from that contract that was signed in
20 '02?

21 MR. GILB: There are changes that, in the union's
22 parlance, they would probably characterize as -- as take-aways.

23 We think they're proposals that are designed to
24 help -- to help restore some balance, give the Secretary for
25 Corrections the tools that he needs to manage the program,
26 preserves the voice of the union in a very, very meaningful
27 way. We think it is a balanced agreement.

28 We -- and if we have disagreements with CCPOA, I

1 think, hopefully, they are only on the margins.

2 SENATOR CEDILLO: You're very articulate. I
3 appreciate that.

4 So, that's a yes?

5 MR. GILB: Yes.

6 SENATOR CEDILLO: So I can understand that.

7 The second is that there's a tremendous backlog
8 of grievances pending. Is there anything that prohibits you
9 from resolving all those now?

10 MR. GILB: The numbers, 700. We do have a
11 tremendous backlog. And one of the proposals that we -- we want
12 to do and is on the table is a better grievance process to
13 resolve this backlog.

14 Again, this -- this is a large prison system, one
15 of the largest in the world. We're dealing with a very
16 influential union. We need a better way of resolving the
17 grievances. It doesn't work.

18 Good issues that we think that need to be
19 addressed are getting lost among issues that we might
20 characterize as a little more frivolous. We think both parties
21 have to come together and figure out a better way of resolving
22 these grievances.

23 SENATOR CEDILLO: On the proposals, the four
24 proposals previously, do you have copies of them?

25 MR. GILB: We can furnish it to you, sir.

26 SENATOR CEDILLO: The proposals that you shared
27 with the --

28 MR. GILB: Certainly. The last proposal we made

1 is, in fact, posted on our web site.

2 SENATOR CEDILLO: And the first proposal? You
3 said you had 10 meetings with four offers; 20 sessions with
4 varying degrees, four offers.

5 MR. GILB: Yes.

6 SENATOR CEDILLO: All of those offers were in
7 writing?

8 MR. GILB: Yes.

9 SENATOR CEDILLO: So, you'll be happy to share
10 those with us?

11 MR. GILB: Certainly.

12 SENATOR CEDILLO: It's a question of dialogue.
13 The last thing is, you know, I have some modest experience in
14 this area. It's important. It really is very, very important.

15 But I have to tell you, there is, as you know as
16 the professional that you are, there's a kind of unique dance
17 that takes place in labor negotiations that are unique from
18 other negotiations, and it's very structured.

19 What I found when I first began my little modest
20 career that I had is, that it's very structured. It doesn't
21 really required dialogue.

22 It really requires simply the exchange of
23 proposals.

24 That was really shocking to me, but it really is
25 the way in the public sector much of the negotiations take
26 place. I mean, I don't necessarily think that's its attribute,
27 but it's also its character.

28 MR. GILB: I have seen that. I don't believe in

1 that.

2 And I think in most of the state negotiations
3 I've participated in, there has been extensive discussion, and
4 extensive dialogue.

5 It's -- it's very important not to just pass
6 language, but for the parties to actually get together, look at
7 the language, and figure out what the intent is, and make sure
8 they're on the same wavelength.

9 I don't want a lot of arbitrators interpreting
10 contracts in ways that parties didn't agree to and did not
11 intend.

12 SENATOR CEDILLO: Finally, maybe another one or
13 two, on these take-aways/changes, how many of them? What do you
14 think are their impact on the efforts for recruitment?

15 MR. GILB: Well, first of all, the major changes
16 that we are seeking -- we have five or six major issues, but
17 there's probably subpieces to each -- we are seeking some
18 changes to sick leave. We think if we can get the sick leave
19 down, and our interest is getting the sick leave down, we will
20 have better staffing. We think that's safer for the officers.
21 We think that's a good thing.

22 We have proposals to change the contract to allow
23 some of the court stipulations on the juvenile side to occur.

24 SENATOR CEDILLO: Can you explain that?

25 MR. GILB: Yes. As I understand it, we have some
26 proposals under the court case of Farrell vs. Allen. And again,
27 the program experts -- this is an area where we'd need my
28 program experts to comment.

1 SENATOR CEDILLO: That's fine.

2 The next one? There's six of them; that's two of
3 them.

4 MR. GILB: One of our big issues is the status of
5 the local agreements and the addenda to the contract that are
6 negotiated.

7 We think we do a lot of bargaining that we
8 should -- that we should do, and we should talk about health and
9 safety, and staffing, and issues of concern to the union.

10 But the status of those agreements, we don't
11 think they should be zipped up very, very tight, and not have
12 the ability of -- to make changes in them when the circumstances
13 change in the prison. Those tend to deal with a lot of
14 operational issues, and the impact of operational changes.

15 Well, a prison in the state is a dynamic process,
16 and you can't -- you can't freeze things in places. So, while
17 we should sit with the union, talk with them, try to reach an
18 agreement, we should also have the ability when circumstances
19 change to -- to approach them and say, "Things have changed. We
20 need to change it."

21 So, we are seeking what's called the unzipping of
22 these agreements and clearly establish and clarify the process
23 for how those -- those agreements are -- are going to be
24 reached.

25 Generally speaking, we have a couple of proposals
26 to modify our -- our post and bid provision, particularly in the
27 medical units, some of the transportation units, and those are
28 fundamentally the changes that --

1 SENATOR CEDILLO: You say --
2 MR. GILB: -- we are seeking.
3 SENATOR CEDILLO: -- post and --
4 MR. GILB: Post and bid. It's seniority
5 biddings, sir. Bidding on posts by seniority.
6 SENATOR CEDILLO: So, you want to make some
7 changes on seniority?
8 MR. GILB: Yes. Right now the ratio in the
9 contract is, you know, 70 percent of the -- of the positions are
10 posted on the basis of seniority. We want to exempt certain
11 medical units that are of concern to the court.
12 SENATOR CEDILLO: Are those within the bargaining
13 unit?
14 MR. GILB: Pardon me?
15 SENATOR CEDILLO: These are within the bargaining
16 unit?
17 MR. GILB: Officers on the medical units,
18 correct.
19 So, we're seeking some changes there as well.
20 SENATOR CEDILLO: And what else?
21 MR. GILB: We do have a proposal as part of our
22 four-year agreement. It's a change that -- it's the one
23 economic agreement -- economic proposal, I think, that we have
24 out there for -- for changes, is that new officers hired into
25 the system would be subject to the highest three years, instead
26 of the highest single year for retirement.
27 We were successful in getting that in some of the
28 other bargaining units. We have that on the table with CCPOA as

1 well right now.

2 SENATOR CEDILLO: Anything else?

3 MR. GILB: Not that occurs to me right now, sir.
4 Probably drawing a blank, but that's what I think they are.

5 SENATOR CEDILLO: I don't have conflict over
6 here. Seniority, sick leave, then this unzipping.

7 So, you negotiate a contract, and then you want
8 to come back and have reopeners?

9 MR. GILB: Well, we want -- We're not talking
10 about the master agreement. We're talking the current contract
11 requires negotiations when there are changes outside the scope
12 of the master agreement that impact working conditions. We're
13 required to sit down with the union and try to hammer those out
14 and try to reach an understanding and agreement with them.

15 The current contract basically says those --
16 those agreements are zipped, and they can't be changed. So,
17 when circumstances change, we need to be able to go back and
18 say, "Things have changed."

19 We have to -- we have to move down the road.
20 We've had some experiences where -- where we haven't been able
21 to successfully do that.

22 SENATOR CEDILLO: Okay.

23 No other questions.

24 SENATOR PADILLA: I appreciate my colleague's
25 thoroughness in asking about negotiations, because I think we
26 speak for the rest of our colleagues.

27 And I particularly have a concern about what
28 seems to be a lack of progress really since we voted on AB 900.

1 Is there anything else that we haven't asked that
2 you feel was a gesture, or a good faith effort on your part, to
3 move further toward resolution since that vote?

4 MR. GILB: We have -- we have talked with some of
5 the representatives of the union about the mediation process.
6 We have had tried to explore alternative -- different
7 mediators. We're trying to break the ice, and I'll continue to
8 try to break the ice. My door is always open.

9 SENATOR PADILLA: Let me come back to that in a
10 second.

11 First, a quick technical question about an issue
12 that came up last week with other appointees before Rules, a
13 specific issue of background checks for correctional officers.

14 Who conducts those? Are you familiar with this
15 issue?

16 MR. GILB: Only generally, sir.

17 I believe the Department of Corrections conducts
18 those backgrounds. I'm not a hundred percent sure, sir, on how
19 they do it and what the process is.

20 SENATOR PADILLA: This is one department that
21 wouldn't fall under --

22 MR. GILB: No, that's not -- that's not part of
23 collective bargaining.

24 SENATOR PADILLA: -- under recruitment and
25 retention?

26 MR. GILB: That's correct.

27 SENATOR PADILLA: Related but not quite, moving
28 toward resolution of the contract negotiations themselves, do

1 you believe that impasse moves us closer or farther away from
2 further federal intervention?

3 MR. GILB: I hope it moves us -- I hope it moves
4 us closer, because I believe it will compel both of the parties
5 to get an agreement. Get an agreement.

6 We are not seeking an impasse and a unilateral
7 implementation. I mean, the current process we're in, where
8 we're asking for a mediator, is not what we're contemplating
9 here, sir.

10 SENATOR PADILLA: I'll let Mr. Ashburn roll on
11 this one.

12 SENATOR ASHBURN: I just want to follow up on
13 that comment.

14 I mean, I'm astounded by the comment, that you
15 hope that it moves us closer to federal intervention.

16 MR. GILB: No, I didn't say that, sir. I think
17 it moves it away, sir.

18 SENATOR ASHBURN: Okay, I misheard then, and I
19 apologize.

20 I mean, if that's the policy --

21 MR. GILB: No, no, no. No, I believe it moves us
22 away.

23 SENATOR PADILLA: Do you want to restate your
24 answer?

25 MR. GILB: I clearly -- I'm sorry. If I
26 misspoke, it's my fault.

27 I think the current process we're in moves us
28 away -- towards an agreement and away from federal intervention.

1 SENATOR PADILLA: Thank you for the
2 clarification.

3 Again, I think it only further astounds us that
4 this is where we are today.

5 You're the one before us for confirmation.. And
6 in terms of your earlier testimony, you shared with us sort of
7 what your level of involvement was at various stages.

8 To be honest with you, I'm very surprised.
9 Looking at your resume, you were the labor relations person at
10 one point not too long ago.

11 And on a negotiation of this significance, for a
12 department that is clearly front-burner for us, for you to not
13 engage further surprises me.

14 Any comments?

15 MR. GILB: Senator, to do these negotiations, we
16 did -- we did contract with an outside negotiator who's very,
17 very competent in doing what he does. We tried to bring a very,
18 very competent, good negotiator in to handle these -- these
19 negotiations.

20 A chief of labor relations, a director, can't do
21 it all. I do try to oversee and monitor these, and set the
22 tone.

23 And I -- I think I have been doing good due
24 diligence in -- in my job in these negotiations.

25 SENATOR PADILLA: So, a contract this
26 significant, moving towards impasse, with four offers in either
27 direction, potentially more based on an interpretation of a
28 letter, and still no resolution. That, in your opinion, is good

1 progress?

2 MR. GILB: Senator, we haven't made any
3 progress. That's why we asked for a mediator, and we asked for
4 help.

5 SENATOR PADILLA: I am not --

6 MR. GILB: I am -- I have been frustrated that we
7 have not made progress.

8 SENATOR PADILLA: I thought I heard you say a
9 second ago that things were going well.

10 MR. GILB: I think once we get into this process,
11 they will go better.

12 SENATOR PADILLA: Let me try to give you some
13 credit here.

14 I have to believe that your appointment to this
15 position is significantly due to your previous experience.

16 Let me go even further and say, some specific
17 experience and demonstrated working relationship, ability to
18 negotiate, resolve issues like this.

19 MR. GILB: Yes, sir.

20 SENATOR PADILLA: Would you like to think the
21 same?

22 MR. GILB: Senator, I can't negotiate with
23 myself.

24 SENATOR PADILLA: I understand.

25 But given that, for you not to apply more of it
26 directly on a contract this significant for the state, for the
27 state budget, for the administration, for the Legislature, it
28 just doesn't make sense.

1 MR. GILB: Again, Senator, I assure you, even
2 though I may not be at the bargaining table, I have been
3 intimately involved in these discussions.

4 SENATOR PADILLA: So, do you disagree with any of
5 the steps, any of the decisions that have been made along the
6 way that have led us to where we are?

7 MR. GILB: Well, everybody can look back in
8 hindsight and wish they'd done things differently.

9 SENATOR PADILLA: I asked a yes or no question.

10 MR. GILB: I think generally speaking, we have
11 conducted the negotiations fairly well.

12 SENATOR PADILLA: Is there any specific decision,
13 any specific change in status, any specific exchange in
14 communication -- at the table or otherwise -- that you disagree
15 with, that you would suggest should have been handled
16 differently?

17 MR. GILB: Not off the top of my head, sir.

18 SENATOR PADILLA: Thank you.

19 SENATOR ASHBURN: Can I just pick up there?

20 CHAIRMAN PERATA: Sure.

21 SENATOR ASHBURN: On your last comment to
22 questions of Senator Padilla, I mean, your response strikes me
23 as contradictory to the response that you gave to me on the same
24 question, which was, you know, when I asked you about the letter
25 from CCPOA, the decision not to respond to that offer, what
26 they've characterized as an offer, but instead to go to impasse.

27 You, I think, said things could have done
28 differently.

1 That said to me that a mistake was made.

2 Then Senator Padilla just gave you the
3 opportunity to say, well, the way things have been going, and
4 the steps that were taken, do you agree with them?

5 And my interpretation of what you just said is,
6 "Yeah, things are pretty good."

7 MR. GILB: Again, Senator, and going back to some
8 of those letters, I do you recall some of them were very clear
9 where union itself said we weren't making progress; every time
10 we meet we grow -- we grow further apart.

11 You can always sit there and second-guess.

12 SENATOR ASHBURN: That's not what I'm asking.

13 You answered my question one way; you answered
14 his question a different way.

15 Why did you do that?

16 MR. GILB: Senator, perhaps I was caught a little
17 bit unawares of your questions and not having the documents in
18 front of me.

19 SENATOR ASHBURN: Well, my God, you're here for
20 confirmation. You've got this major issue hanging over your
21 head. Every word that you say is being analyzed.

22 And now, the explanation is, "Oops, I made a
23 mistake."

24 I mean, no wonder we can't get an agreement.

25 MR. GILB: Sir, I believe that we've done a good
26 job, bargaining in good faith with CCPOA.

27 SENATOR ASHBURN: Okay, and that's fine.

28 But I want to know why you answered Senator

1 Padilla one way, and you answered me a different way?

2 MR. GILB: Because I think -- sir, I think
3 generally speaking, over the course of negotiations, we have
4 done a reasonably good job of getting offers out to the union,
5 trying to communicate with them.

6 I have met with them on many, many occasions.
7 And in the general art of bargaining, I think we have generally
8 done a good job.

9 SENATOR ASHBURN: Well, we don't have an
10 agreement, and we've been at it for 20 sessions. And Gil had
11 the list of how many meetings and all that.

12 We don't have an agreement, and we're off into
13 Never Never Land now as a result of your decision -- you said it
14 was your decision -- to send it off to somebody else.

15 CHAIRMAN PERATA: There is a great temptation on
16 the part of the Legislature to want to come in and fix
17 everything, because we've had such a terrific record.

18 I don't want to step in, but I've got to tell
19 you, because there's a couple things that, as I've been
20 listening to this discussion, you characterized the
21 disagreements between parties as on the margins.

22 That defies everything I've heard or read. Most
23 of what we know about it, the public would know about, and I
24 would say for most of my colleagues, it would be what they've
25 read about it in the paper, and comments that have been made.

26 And I've been operating under the assumption that
27 there was an agreement made under the previous administration
28 that the dollar spread between the contracts would be,

1 ironically, six-six-six. Is that correct?

2 MR. GILB: Yes, sir.

3 CHAIRMAN PERATA: So, it would appear to me that
4 that's pretty easy. You see where the CHP is, and then you just
5 peg it under that; right?

6 MR. GILB: Well, sir, that's -- that is one of
7 the sources of our disagreement.

8 We believe the -- what you peg it to meant one
9 thing in the previous contract. We believe it should have been,
10 you know, certain factors.

11 We had an arbitrator that interpreted it
12 differently. We have CCPOA that, perhaps, interprets that
13 differently.

14 We're trying to get to a point where we have
15 clarity on what that six-six-six means.

16 CHAIRMAN PERATA: Okay. I got it now. I
17 understand it. I'll bet you had lawyers to draw these things
18 up, too; didn't you?

19 I always thought in the public sector that when
20 you hit an impasse, you go to a mediator, then you go to the
21 last best offer.

22 Is that correct here?

23 MR. GILB: Generally speaking, but you've missed
24 something important in between.

25 You go to a mediator, and there's an agreement.

26 CHAIRMAN PERATA: So, there was an agreement, but
27 you're saying there was an agreement at mediation?

28 MR. GILB: Yes.

1 CHAIRMAN PERATA: Okay. So if that's the case,
2 what's the next step?

3 MR. GILB: If there is an agreement?

4 CHAIRMAN PERATA: When you think there's an
5 agreement, and they don't, so --

6 MR. GILB: We submit it, the disagreement,
7 then -- then the parties have to decide what to do. And we
8 have not even begun to think about or cross that bridge.

9 I am here to get an agreement, and the
10 administration has not authorized me to go farther.

11 CHAIRMAN PERATA: Tell me where we are, because I
12 sure as hell don't understand where we are.

13 MR. GILB: Senator here's where I think we're at.

14 We have given them a proposal that we think
15 offers an 18 percent pay raise over four years.

16 In addition to that, we think we've addressed
17 their issues -- one of their issues that have to do with a
18 disagreement over pre-imposed shift work activities and added an
19 additional one percent to that.

20 We have tried to match. We have matched, we
21 think, the shift differential that we've given to the Highway
22 Patrol.

23 We've matched the uniform allowance to get to the
24 Highway Patrol, to try to maintain that parity.

25 We've provided an offer to provide a \$2,000 per
26 recruit for every body people brings [sic] in.

27 CHAIRMAN PERATA: Would you say that you're at
28 your last best offer?

1 MR. GILB: No.

2 CHAIRMAN PERATA: No.

3 Of course, it is very hard. This is an unfair
4 conversation, because even though you're in charge, or you're
5 responsible, you're not in charge.

6 And I'm just saying, when guys work for you,
7 unless you're there, you don't know. And frankly, a hired gun
8 doesn't have any skin in the game.

9 I've seen this when I was at the county. You
10 bring in these guys. They represent a lot of different
11 management around the state.

12 They couldn't find the Central Avenue if they
13 came in there with a flashlight and a map before Google.

14 So, I'm very jaundiced to that. The irony is,
15 you've got all kinds of people here -- most of them left, but
16 some of them are still here -- who came to support you. They
17 are representatives of other public labor groups: CHP, PORAC --
18 maybe not PORAC -- somebody.

19 And that credibility has come because they
20 respected you across the table. You ain't across the table
21 now.

22 I just got to tell you, when you leave here, I
23 don't know why somebody with your kind of background and
24 credibility, people that I know and respect are vouching for
25 you. And I don't know why you're not at the table.

26 So, I'm going to leave here tonight still
27 wondering about that, because we're not going to be able to get
28 into it.

1 I want to tell you couple of other things, and
2 then I'm going to open this up.

3 We have been listening to a whole variety of
4 people who are confirmable under the reorganization, the new and
5 improved reorganization. And some of them are lost in space. I
6 mean, in fairness, they need a guide dog and a cane.

7 And then last week we hit two Associate Directors
8 who acquitted themselves very well, and had enormous respect by
9 the people who come forward in rank and file. But they just
10 handled themselves well. They were good managers. You could
11 just tell it.

12 So, there is evidence that there is life here
13 somewhere. The problem is, these two gentlemen were here in the
14 org. chart, and they seemed to have a really good grasp of
15 things. And the people a little higher up in the org. chart,
16 far less so.

17 I say that just philosophically because I can't
18 figure out what else to do here.

19 And then the thing that really -- and this is
20 something that I don't think an outside gun could do -- we saw
21 Salinas Valley Prison. I know that's not your beat; not mine,
22 either. I know I couldn't afford to live in most places in the
23 Salinas Valley.

24 So, we get information that says that they're 40
25 percent understaffed right now. And then we hear that the
26 Governor's plan calls for 8,000 more prisoners to go to a prison
27 that's already understaffed by 40 percent.

28 You see, facts like that then, when you talk

1 about, "We want to get some concessions on workload and
2 assignments," you could perhaps understand why people would be a
3 little jaundiced about doing that.

4 I get across the table from you. You're a guy
5 that's been around for a while, we can do eyeball-to-eyeball. I
6 don't have that with some suit.

7 So, I've heard enough about this stuff now that
8 I'm dangerous because I know just a little bit too much, but not
9 nearly enough.

10 But I certainly understand when somebody says
11 that you want more managerial control over prison-to-prison
12 transfers. Some of these guys that I met, I wouldn't want them
13 making that shot, because if you said, "I'd like to be closer to
14 Susanville," or McKinleyville, or one of those villes, and not
15 in Avenal, then I'd want somebody that would have some feel for
16 what's going on, what it's like.

17 Because we pay these guys pretty well, but they
18 sure as hell can't live in a lot of places. They're just like
19 everybody else.

20 So, I'm working off frustration here right now.
21 I wish that was vodka or gin.

22 But David, I've just got to tell you that you're
23 in I wouldn't say a perfect position. You're probably in a
24 lousy position.

25 But you've got the skill set. And this whole
26 prison thing could implode. I'm not talking about riots and
27 stuff, but it's a black hole for the state budget. We've spent
28 two-point-some-odd billion in the last couple of years, and no

1 end in sight.

2 I wish that CCPOA's contract was the biggest part
3 of the problem. It ain't.

4 But it occurs to me repeatedly that we cannot run
5 this place unless we can get some kind of an accord and
6 agreement.

7 You're the best hope I see out there.

8 Having said that, did you bring any family here
9 that would probably like to --

10 MR. GILB: My wife is out of town.

11 I do think my brother is back there.

12 CHAIRMAN PERATA: Right by the door.

13 [Laughter.]

14 CHAIRMAN PERATA: At least you're on the inside.

15 Okay, anybody here that would like to speak in
16 favor of the nominee? Some of the very people that I had talked
17 about.

18 MR. BLANNING: Senator Perata, Members of the
19 Committee, Bruce Blanning with Professional Engineers in
20 California Government, representing Unit 9.

21 We already sent in a letter of strong support and
22 endorsement for Dave Gilb, but let me just add that I've known
23 Dave for a number of years. He not only has excellent
24 experience, but he's a guy who does know how to reach an
25 agreement if there's an agreement there.

26 He is a good, honest man to deal with. Being
27 trustworthy at the bargaining table does not necessarily apply
28 to everyone, but Dave certainly is.

1 We think the Governor made an excellent
2 selection, and we heartily recommend him.

3 CHAIRMAN PERATA: Thank you.

4 MR. HAMM: John Hamm, with the California
5 Association of Highway Patrolmen.

6 I have worked with Dave for over 17 years. In
7 fact, we went through negotiations, very difficult negotiations,
8 in the early '90s, and we reached an agreement. And they
9 couldn't get much worse than what we went through.

10 But I echo my colleague's statement. He's
11 trustworthy.

12 CHAIRMAN PERATA: He was sitting across the
13 table?

14 MR. HAMM: He was sitting directly across the
15 table.

16 MR. MURCH: Yes, I'm Ken Murch. I represent
17 Bargaining Unit 18, the Psychiatric Technicians.

18 I've known Dave for 17 or 18 years. As a matter
19 of fact, I bargained the first contract, I think, that he ever
20 bargained as a labor relations guy. He was with the Department
21 of Mental Health and DDS.

22 How do you judge a man? You know, I've heard a
23 lot of commentary here. And I've been in this business for a
24 long time, back to the start of the Dills Act.

25 The only way I can judge a man is how he treats
26 me in that bargaining session, and how he treats the proposals
27 of my membership.

28 I take no sides on any labor dispute, but I take

1 strong support of Dave as the Director of DPA. I've always
2 found him to be honest. He's accessible. He's a man of his
3 word, and he's a closer in a situation. And a lot of times
4 that's very important to the bargaining process.

5 So, I recommend Dave highly. I'm bargaining
6 right now with him on behalf of the Psych Techs on some issues
7 involving recruitment and additional training, and hoping we can
8 get more people into the profession.

9 CHAIRMAN PERATA: You're negotiating
10 face-to-face?

11 MR. MURCH: Well, it's with his designee, and
12 then, you know --

13 CHAIRMAN PERATA: Inside or outside?

14 MR. MURCH: Inside. And if there's any disputes,
15 or we can't get something, then we're always available to go and
16 have side bar meetings with Dave to review the issues.

17 So, on behalf of the California Association of
18 Psych Techs, we really support his confirmation.

19 CHAIRMAN PERATA: Thank you.

20 MR. READ: Thank you, Mr. Chairman and Members.
21 Aaron Read. You've already heard from two of my clients. I'm
22 here representing a third who couldn't be here, the President of
23 CDF Firefighters.

24 CDF, or Cal FIRE as it's now being known, is the
25 largest fire department in California. And firefighters have
26 tremendously difficult schedules, and working conditions, and
27 you know, wildland fires and the like, makes their negotiations
28 very arduous, and very emotional, and very, very difficult.

1 And with all of that, I can tell you, they're not
2 happy. I don't think any of these groups are ever really happy
3 when they get an agreement. It's one of those things where both
4 sides declare victory, and it's just like around here. You
5 never get everything that you want, of course.

6 And that's the case with CDF Firefighters, but
7 they do respect Mr. Gilb personally and professionally. His
8 ability -- he has sat across the table in prior positions, and
9 now, of course, he oversees things.

10 We also realize that Department of Finance plays
11 a major role. None of us here would ever expect that, you know,
12 Mr. Gilb could do it the way he wants. He has to answer to
13 Finance and to the Horseshoe. And all of us know that.

14 CHAIRMAN PERATA: The horse what?

15 [Laughter.]

16 MR. READ: That's perfect. I think I should stop
17 with that.

18 But we have great respect for him. It's, I
19 think, the most difficult job in state government. It's one I
20 wouldn't do for triple the money. So, I admire the fact that
21 somebody's got to do it, and I don't think you're going to find
22 anybody better.

23 So, on behalf of CDF Firefighters, we support
24 Mr. Gilb.

25 CHAIRMAN PERATA: Thank you.

26 MR. SEMER: My name is Mitchell Semer, and I
27 represent the Association of California State Supervisors, the
28 organization that represents excluded employees: managers,

1 supervisors, and confidentials in state service.

2 We don't bargain. We're not a union. We have to
3 meet and confer with DPA.

4 Over the years under different administrations
5 with DPA, my members have been ignored.

6 Things have changed with Mr. Gilb's arrival. We
7 have worked with him in the last administration, and now as
8 Director again. We're finding that we have balance, and we're
9 being treated fairly. Our issues are being heard, and his staff
10 is working on solutions.

11 We're grateful for this, because after six, seven
12 years, many of our members are simply walking away from their
13 jobs. They're retiring. And rank and file are not taking their
14 positions. They're not going for promotions.

15 You've quoted 35 percent of the workforce.
16 That's going to grow. That's an issue that has to be resolved.

17 Part of my background comes from the private
18 sector. And when we looked to bring in someone for a position
19 as important as this, we not only ask if the person has a strong
20 background and understands those groups and organizations that
21 are impacted by their decisions, but we ask if they a vision to
22 solve it. If they have vision that provides solutions.

23 In working with Mr. Gilb, and talking to
24 Mr. Gilb, we're finding that he has those solutions at least to
25 propose, a refreshing change over the years.

26 We're very pleased to have the opportunity to
27 continue working with Mr. Gilb. My organization fully supports
28 Mr. Gilb.

1 CHAIRMAN PERATA: Thank you, sir.

2 MS. GOLDEN: Mr. Chairman and Members, Sherrie
3 Golden representing the Retired Division of the California State
4 Employees Association.

5 We don't bargain either. We come to the
6 Legislature with bills, but we do have to deal with the
7 Department of Personnel Administration because they are the
8 avenue for us to the Department of Finance and also the
9 Governor's Office.

10 And over the last year or two, we've noticed such
11 a change. There is just access. There's people willing to
12 listen to the issues that we have brought before not only the
13 Legislature but them. And we think that the direction they're
14 taking towards the plight of retirees is one that's been very
15 positive and very beneficial, and we've seen some results.

16 So, the Retired Division, Incorporated of CSEA
17 goes in support of Mr. Gilb and his whole department, in fact,
18 for the things that they've done for us.

19 Thank you very much.

20 CHAIRMAN PERATA: Thank you.

21 Anything further?

22 Opposition.

23 MR. JIMENEZ: Good afternoon, Mr. Chair and
24 Senators.

25 I do rise in opposition on behalf of the -- my
26 name is Mike Jimenez. I'm the current President of the
27 California Correctional Peace Officers Association. Thank you.

28 I do rise in opposition. And we've got a much

1 different perspective of everything that's gone on than what
2 Mr. Gilb has with regard to up-to-the-minute discussions.

3 Mr. Gilb has only participated in one negotiation
4 session. It was on March 29th, 2007. He walked out after about
5 15 minutes after we had just a few questions.

6 One of those questions, which I think you were
7 hinging on, Senator Perata, and that was: Does this offer
8 maintain the relationship that was established by Alexander Cohn
9 with regard to the CHP and CCPOA, \$666 difference, effective
10 July 1st, 2006?

11 Mr. Gilb's answer was: No, it does not.

12 Now, part our problem has been all along that we
13 get one set of information. Senator Ashburn, you hit on it. We
14 get information in one area, and then we get something different
15 when we get to the table. It's never consistent. As a matter
16 of fact, it's quite often directly the opposite.

17 Another thing you hit on with regard to showing
18 up prepared with information. That was something we experienced
19 never happened. That's why we couldn't get to an agreement.

20 We've asked for open, transparent negotiations.
21 We've asked to allow Members of the Legislature in. We've asked
22 to have video cameras in. We've asked to have audio recordings.
23 All of which were rejected by Mr. Gilb and his shop. Not one of
24 them were accepted.

25 I'd like to give you a little different scenario
26 about how these negotiations have come down.

27 We started out in our first meeting on or about
28 July 13th of last year with Mr. Gilb. We met at a little

1 restaurant.

2 Mr. Gilb informed us that we had -- that the
3 department had six issues that they needed to address. And I
4 didn't write them down, so I don't have them sitting in front of
5 me at the time. We had other people. Mr. Alexander was there,
6 our Executive Vice President. Steve Weiss, our Chief of Labor,
7 was there. Mr. Weiss wrote them all down.

8 But we moved forward in the spirit that we
9 believed an agreement was available at that time.

10 On or about July 20th, we sat down and started
11 negotiating ground rules with Dennis Batchelder. He is the one
12 -- actually, we're the one group that got an outside gun, I
13 guess, to come in to negotiate our contract. We were the only
14 ones that experienced that to my knowledge.

15 Mr. Batchelder came in, and we began negotiating
16 ground rules on or about July 20th.

17 On July 30th, we had acquiesced to all of their
18 demands with regard to ground rules, with the exception of one.
19 We had asked that we have an additional number of employees on
20 our negotiating table that ultimately was never agreed to
21 anyway. But that was the only thing that we had any dispute on.

22 On July 30th, after we have had given them
23 everything they wanted, they refused to sign the ground rules.
24 They rejected them out of hand. And in their place, they put
25 300 pages of proposals on the table; 300 pages, actually plus.
26 It came up almost to 350.

27 On July 31st, they did a surreptitious recording
28 of what was going on. Now, they had rejected out of hand our

1 ability to video record or audio record, and then they brought
2 in a transcriber on July 31st who hid the microphone. And
3 according to DPA, they weren't even aware that they were
4 recording.

5 But they recorded what you've seen a little bit
6 of in their Request for Impasse. And I think this will also
7 indicate some of what our dealings have been with DPA under
8 Mr. Gilb.

9 Even though they openly acknowledge that they had
10 no idea whatsoever that the transcriber was actually doing an
11 audio recording, that they never requested that in their
12 contract with the transcribing company, they nonetheless used
13 that unlawfully obtained audio recording to support their
14 Declaration of Impasse.

15 Mr. Gilb's also characterized that that was not a
16 Request for Impasse. All you need to do is pull up the document
17 and read the very last line. It says:

18 "We pray that you will appoint
19 a mediator, and if you won't,
20 that you will declare a formal
21 impasse."

22 That's the last line of the document. I don't know how you get
23 anything different in there.

24 We have approximately 24 hours at the bargaining
25 table, over I believe it's either 24 or 26 sessions. That
26 includes those over bargaining over ground rules.

27 As we sit here today, there's not one written
28 proposal on the table, nothing that can be implemented in

1 contract language, nothing that can be put in a contract.

2 Mr. Gilb has stated that the law requires,
3 through the impasse process, for them to negotiate and for us to
4 negotiate in good faith. It does. It requires that before
5 impasse. It requires that you negotiate in good faith at every
6 meeting that you have.

7 Nonetheless, when we would show up at meetings,
8 and after they put the 300-page proposal on the table,
9 Mr. Gilb's right: We didn't put any counters out there.

10 As you stated, Senator Perata, we tried to find
11 where they were going, and tried to be able to meet them with
12 our proposal.

13 What we found out was, they didn't know where
14 they were going. As a matter of fact, in negotiating sessions I
15 asked them, "What does this mean?"

16 And Mr. Batchelder, in his infinite wisdom and
17 his high paid ability, said, "It means what it means. Says what
18 it says."

19 Those are quotes directly from him when we asked
20 questions about his proposal.

21 He said, "Give us a counter proposal."

22 My response was, "Well, wait a minute.
23 Negotiations 101 is, you don't put anything on the table that
24 you're not ready to sign. You can't even explain it to the
25 level that we would, if we understood it, that we might be
26 willing to sign it."

27 He said, "Give us a counter."

28 See, they weren't prepared to sign it. That's

1 negotiating in bad faith. Mr. Batchelder did this, and he did
2 it repeatedly. They withdrew proposals that were half-baked,
3 that they couldn't defend, that they couldn't respond to.

4 With regard to the entire agreement that Mr. Gilb
5 referenced, their original proposal, although we never got any
6 language on it, so that's one of our hangups. And there's still
7 no language on the table with regarding to that -- or with
8 regard to that.

9 They wanted us to drop below state law. They
10 wanted us to waive rights that we have as state employees, as
11 representatives of state employees, that the law provides for.
12 Now, that's how half-baked that 300-page proposal was.

13 Now, we did have 24 hours of negotiations.
14 Actually, we had 51 if you include all breaks, caucuses, lunch
15 breaks. We spent about \$30,000 on motel rooms to meet because
16 they wouldn't come over to our building. And they'd get up and
17 walk out after ten minutes, after five minutes, after fifteen
18 minutes, because they couldn't answer our questions.

19 Mr. Gilb's negotiators came in with regard to the
20 entire agreement, and they brought two individuals -- Mr. Jay
21 Aguas, whom I happen to have a -- or I thought -- I think we
22 have a friendship, and Mr. Tony Malfey -- to defend their need
23 to take away our entire agreement. Mr. Aguas talked about an
24 issue from 1995 that was causing problems. And Mr. Malfey had
25 no issues whatsoever. He just felt it was appropriate to make
26 changes once in a while.

27 I would ask you to request Mr. Gilb to bring
28 every agreement that's been made under this administration over

1 the last three-and-a-half years that they cannot live with, that
2 they need to have unzipped, that they need to change. And
3 what he'll come up with is none. There's not a single one out
4 there.

5 You see, they've tried to sell a pig in a poke.
6 And I don't know why they did that. I have some suspicion, but
7 it's not accurate. That problem doesn't exist.

8 Haven't brought forward any issues to me, and I
9 have a pretty good relationship with a lot of the management
10 team out there. I've got 20 years in the department, almost 21,
11 and none of them brought these issues forward.

12 Again, we've asked for transparency through this
13 entire process. We've received none. This is my first shot to
14 have an open discussion, and I thank you for that, about what
15 has been put on our table.

16 Information requests have gone unfilled. They're
17 not answered. We've tried to work with them in that fashion.
18 They asked us to put our questions in writing. My entire team
19 was adamant about not doing that. But I thought, you know what,
20 we're trying to get to an agreement. We're going to do it, and
21 I overruled the entire team.

22 And DPA came back with, out of 27 questions, 25
23 of them were, "None of your business; they're not relevant."
24 And the other two were, "You can find it on the Internet," and
25 they gives bad addresses.

26 The March 29th session, which put the -- not the
27 most current, but the second most current offer on the table.
28 And just so you know, there's only been three. There hasn't

1 been four. There's been three.

2 It only lasted about fifteen minutes. It was
3 described as a generous pay offer. From Mr. Gilb's perspective
4 that may be accurate. Not quite as generous as what they
5 offered the CHP. As a matter of fact, nowhere near as generous.

6 For us to agree to that would put us somewhere in
7 the area by the end of the four-year, and that's actually a
8 five-year agreement, but they only wanted to call it a four-year
9 because they want to skip the current year that we're in, and
10 there's a significant amount of money there. That offer -- they
11 only lasted, like I said, 15 minutes. It wasn't generous. But
12 if we went with that agreement, by the end of the deal we would
13 be somewhere around \$1600 behind where the California Highway
14 Patrol is.

15 I told them I'm willing to accept less money. I
16 don't have a problem with that. But the employer needs to write
17 a letter to every one of his employees and tell them why they're
18 second-class law enforcement; why they'll never rate up to the
19 CHP, and why they will remain second-class law enforcement,
20 because I'm not going to do that. I don't believe in that, and
21 I don't think our members do.

22 I don't think that's what you want, a
23 second-class law enforcement, the washouts from the LAPD, from
24 the CHP, from San Diego, from San Francisco.

25 I think we ought to be able to attract the best
26 and the brightest to do the toughest job, or what we believe is
27 the toughest job in the state.

28 Mr. Gilb talked about all of the discussions that

1 occurred off the table. There were an enormous amount. I got
2 billed about \$15,000 by an attorney for having those discussions
3 off the table.

4 But what's amazing is, not one of those
5 discussions were referenced in their Declaration or their
6 Request for Impasse, not one of them. As a matter of fact, it
7 went exactly the opposite way.

8 And I met with Mr. Gilb off the table as well.
9 Not one of those discussions ever made it into that
10 Declaration. Actually, it was sent in under the penalty of
11 perjury that it was all true and correct, but not one of those
12 discussions is referenced anywhere in that document.

13 That's what we've experienced, and we continue to
14 experience.

15 There is no three-year for the final year comp,
16 or three year averaging for the final year comp in the CHP
17 deal. No such demand was made of them.

18 And we do see what Mr. Gilb described as on the
19 fringe or modest take-aways as huge. They want to revert back
20 on sick leave to where we were in the 1990s, where officers were
21 written up for being pregnant, or female officers were written
22 up. Or officers were written up for having cancer. Where I
23 personally know an officer who got written up when his son
24 committed suicide.

25 And Mr. Gilb runs the department that is the
26 final adjudication level of every grievance that we have. They
27 were rejected all the way through.

28 Now, the reason we have 700 grievances is because

1 nobody will answer them anywhere along the way. What we get
2 from Mr. Gilb's shop is the standard, "We believe that the prior
3 level has adequately addressed it."

4 Now, the prior level at one point put out a memo
5 that said, "We've got too many grievances, so we're just not
6 going to answer them. If you don't like it, sent them up to
7 DPA."

8 We've already got their buy-off on this. I can
9 provide that to you, if you'd like it. That was done during
10 this negotiating process.

11 As I stated, there's only been three proposals
12 that been put on the table: One that was 300 pages, and then
13 the last two.

14 The last two have no language attached to them
15 whatsoever. They're concepts, which is where Mr. Gilb
16 originally started on July 13th and his six issues.

17 We had no real negotiations subsequent to
18 December, and much of that was at Mr. Gilb's request, and he
19 doesn't offer to share that up in that letter of impasse, but he
20 took a couple of vacations in there. We were settling an
21 arbitration in there. We ended up at about \$200 million over.

22 And what he hasn't shared with you as well is
23 that we still have one pending. I believe that there's a date
24 this week. That's worth about \$140 million in back pay and
25 separation from us and the CHP.

26 He talked about Farrell vs. Allen, and the need
27 to eliminate staffing profiles, and eliminate post and bid.
28 That's not the request of that lawsuit. Neither one requests

1 that. That's their request.

2 The reason post and bid's important is because
3 people have some ownership of the job they do. They have some
4 feeling that that's control of their life.

5 Now, that's largely been eroded by overtime and
6 all of the over -- over-orders that go on, but it gives them
7 some control of their life.

8 You see, the way they used to discipline us is,
9 if I didn't agree with my supervisor, and the only thing I had
10 was watch preference back then, I'd go from a Friday-Saturday,
11 Saturday-Sunday, or a Sunday-Monday job to Tuesdays and
12 Wednesdays. And if I had second watch preference, they always
13 considered the kitchen second watch, so I'd end up on second
14 watch still with Tuesdays and Wednesdays, working 4:00 'til noon
15 everyday. And actually, that may not be a bad job nowadays,
16 because it makes it harder to order the over. But that was how
17 they disciplined us, and that's why it's important.

18 And one of things that my members -- that the
19 members of CCPOA, not mine, have shared with me is that money is
20 largely irrelevant. Do not give away our post and bid. That's
21 the only control we have of our lives, and that's one of their
22 demands.

23 Like I said on the unlawful recording, didn't
24 bother them to include that in that Declaration of Impasse.

25 On the local agreements, what Mr. Gilb is telling
26 you is that they don't want to have to honor them, is why they
27 want to be able to open them. They want to be able to come to
28 the table and unilaterally say -- or they want to send us a

1 letter and say, "You know that agreement we made yesterday?
2 It's no good. We're not going to live with it any more. We're
3 changing it today."

4 Now, they could have agreed with staffing. They
5 could have agreed with policies or procedures. We could have
6 loaded them in the agreement. And the minute they make them
7 with us, they want the ability to say, "Aw, it's not an
8 agreement anymore. Too bad."

9 It's about honoring their word. It's about being
10 honorable. That's what all of these difficulties are about.

11 And I do agree with Mr. Gilb, that until they get
12 some integrity on their side of the table, we're going to have a
13 hard time.

14 You come to me 20 times and tell the truth, and
15 then on the 21st, you tell a bold-faced lie, I'm not going to
16 tell people you're an honest man. I think every one of you have
17 dealt with me enough to know that.

18 I can't go out and lie to the CCPOA membership.
19 I'm not going to do that.

20 Mr. Gilb's claimed that this deal is the exact
21 same money that they offered the CHP. I can provide it to you
22 in newspaper accounts. I can provide it to you in the
23 documentation that you were given as Members of the Legislature
24 when this deal first -- well, you were given it before it was
25 given to me, before the deal went out.

26 The first one, and there were two different
27 copies put out. You were given one that said it was worth about
28 a billion dollars. That one wasn't given to us.

1 They gave us one that put it 726 million, but it
2 included the supervisors as well that we don't have any
3 collective bargaining rights for.

4 It said in that offer that it continues the
5 six-six-six formula. And I'm willing -- just so you know I'll
6 make the offer here today, Senator, I'm willing to step away
7 from that formula.

8 I'll go to six-six-seven, just because I don't
9 want to try to go to five. I know how that's going to be
10 rejected, but just so you know I'm being noble in that, and I'm
11 showing you that I do have movement.

12 CHAIRMAN PERATA: A religious man.

13 [Laughter.]

14 MR. JIMENEZ: What I'm amazed with is that
15 Mr. Gilb comes before you today and asks for your vote of
16 support, but he didn't want any of you to watch the negotiation
17 process. He totally rejected that. I've got to ask, why?

18 He talked about post and bid in the medical
19 units, and he tries to down-sell that as not a huge issue.

20 When we asked them at the negotiating table, "How
21 many positions is that?"

22 Answer was, "As soon as you sign the deal, we'll
23 tell you."

24 "Well, how many people is that?"

25 "Sign the deal, we'll tell you. We're not going
26 to define that here today."

27 They had a proposal in their original 300-page
28 document to not allow female officers to work in certain areas

1 of male institutions, which may be reasonable, and to not allow
2 male officers to work in certain areas of female institutions,
3 which may be reasonable. But they refused to tell us how many,
4 where, or why. They refused to establish a statewide policy
5 that dealt with that.

6 We believe that that just invites discrimination.
7 It invites discrimination complaints. But we couldn't get any
8 sense in there.

9 Like I said, Mr. Gilb has been at the table with
10 us for 15 minutes, and he walked out. There hasn't been this
11 huge effort to make a deal that's been portrayed. And the last
12 two offers, we've had one session of 15 minutes that Mr. Gilb
13 walked out on. It wasn't because he was verbally abused. It
14 wasn't because he was sworn at. And I have had occasion to do
15 both, not with Mr. Gilb.

16 But it was because I told him, if it didn't
17 maintain the six-six-six that he had told you, and the press,
18 and the Governor, and Mr. Tilton, and everybody else except us,
19 that he was wasting his time.

20 And he flat-out told me it did not.

21 I'll leave you with one other thought on
22 prison-to-prison transfers for the officers. They don't allow
23 them now. I don't know why they want harder language on it.
24 Actually, I do: because we've got an arbitration that we're
25 getting ready to win on that as well.

26 They don't allow prison-to-prison transfers. We
27 have officers that sign up, and they're being promised that
28 they'll be allowed to transfer after a year or two years.

1 The drive from Temecula to Tehachapi, two hours
2 and forty-five minutes one way. I know an officer doing it. He
3 contacted me. And they've denied his transfer.

4 Now, he's fallen asleep behind the wheel three
5 times, because it's not just an eight-hour day plus two hours
6 and forty-five minutes each way. Tehachapi's one of those
7 institutions where they've got a lot of vacancies. So, it's
8 over a 21-hour day for this officer. He doesn't want to die on
9 the freeway. He's going to quit his job because he can't get a
10 transfer, even though our contract requires it.

11 Now, something that they do do at DPA, and
12 they've done this under Mr. Gilb, they continue today, is they
13 play games on our arbitrations. That's why we have so many. We
14 can only arbitrate about 30 grievances a year. We may get up to
15 50 this year. But with 700 of them backlogged, that puts us
16 still 15 years away. If you file a grievance today, it's about
17 15 years away, because they play games.

18 They won't consolidate them. They won't allow us
19 to expedite them. They'll settle them at the 12th hour on the
20 courthouse steps, so we have to go ahead and pay for an
21 arbitrator anyway. And they won't let us slip another
22 arbitration in there.

23 You see, this has all happened under Mr. Gilb's
24 watch and under his watchful eye.

25 I don't know what the experiences of the other
26 bargaining units are. I can only tell you about the experiences
27 of CCPOA. And I've been intimately involved in every
28 negotiation session that's gone on, and in every proposal that's

1 been passed.

2 It's not that we don't want to. I just don't
3 have any idea what target is, and I can't get that. It
4 continually changes.

5 They've been dishonorable and dishonest with us
6 in all of their dealings.

7 Now, I believe that there's a reason for it, and
8 I believe it's a billion dollar package. And I know that
9 there's people on the street that die for \$20 in their pocket.
10 I can't imagine what somebody would do over a billion dollars.
11 I know they'll do what they're told to do.

12 I'm a little bit -- I remain disappointed, but
13 I'm not deterred. I'm not dissuaded.

14 And I'm more determined now than ever to bring in
15 a fair contract for the members of Bargaining Unit Six.

16 And I'm open to any questions that you may have.

17 CHAIRMAN PERATA: Thank you. We appreciate you
18 being here.

19 MR. GILB: May I respond to what's been said?

20 CHAIRMAN PERATA: We're not going to negotiate
21 here, no.

22 Anybody else in opposition?

23 Pleasure of the Committee?

24 SENATOR DUTTON: I move approval.

25 CHAIRMAN PERATA: We have a motion to approve.

26 Any discussion on that?

27 SENATOR CEDILLO: It seems to me I'm not prepared
28 to move the nominee forward.

1 At the same time, what we heard was the obvious
2 two views of the world of one process.

3 And I think the question, the leadership
4 challenge here is for people to figure out how we move forward.

5 I think there's time that's available for
6 Mr. Gilb. He's a leader and experienced leader.

7 I think the immediate challenge would be to lay
8 out how would you address this in a short-term? You were going
9 to respond to us. I don't think it's necessary you respond to
10 us.

11 I think the response, and dialogue, and
12 communication needs to take place between DPA and the union.
13 I'm more interested in us making progress on this contract.

14 I'd ask that we take advantage of whatever time
15 is left on the clock to ask if Mr. Gilb is moving this process
16 forward.

17 CHAIRMAN PERATA: Let me ask you this, Dave.

18 You made the decision to bring in the outside --

19 MR. GILB: Yes. May I comment?

20 CHAIRMAN PERATA: Yes, go.

21 MR. GILB: We hired a gentleman named Dennis
22 Batchelder, who was the first Chief of Labor Relations for the
23 state, was a Deputy Director for Labor Relations, knows state
24 government, helped create the Dills Act, understands how to
25 negotiate labor agreements. This was not simply a hired gun
26 designed to come in and shoot the union.

27 CHAIRMAN PERATA: This would be real easy, you
28 know, because we could go on to how many angels can sit

1 comfortably on the head of a pin.

2 But I think this is the most serious situation we
3 face right now in this state because we won't be able to paper
4 it over.

5 What I would like to suggest is that you take
6 another hard look at what's going on in this particular case.

7 As I said, you just have too much background,
8 too much talent, and too many people. And I know some of these
9 people that came up here and said nice things about you. It may
10 not be unprecedented, but they sure don't throw those things out
11 very frequently.

12 So, it seems to me that the guy that could get
13 this thing done is staring right at me. And I'd like you to
14 think about that. I'd even go so far as to say, what have you
15 got to lose? You've tried to engage.

16 I thought when we hit impasse, we were ready to
17 go to, "Take it or leave it."

18 You're saying that's not the case.

19 Personally, I'm ready to confirm you. I'm not
20 holding you hostage over getting this thing done.

21 I just think it would be a damn shame to miss
22 this opportunity. I'd rather have you come back and say, "I
23 can't get it done."

24 But I don't have any feeling like that at all.

25 MR. GILB: I'll do it, sir.

26 SENATOR PADILLA: How much time do we have?

27 CHAIRMAN PERATA: July first.

28 SENATOR PADILLA: Is there a reason we can't put

1 this over until next Wednesday?

2 CHAIRMAN PERATA: Do you want two weeks? Do you
3 want a week?

4 I'm not asking you to have a contract settled.

5 MR. GILB: I can't have a contract settled in two
6 weeks, sir.

7 I'm willing to more fully engage in the
8 negotiations.

9 CHAIRMAN PERATA: That's all I'm asking you.

10 MR. GILB: Yes, sir. That's what I meant.

11 CHAIRMAN PERATA: Bring the people back to the
12 table, and you run your side of the shop.

13 MR. GILB: I'll be even more willing to more
14 fully engage in negotiations.

15 CHAIRMAN PERATA: I want the little engineer's
16 hat on.

17 There's just too much about this whole area of
18 Corrections, and how we're going to get to rehab. We've got
19 AB 900 now. All this stuff's out there, but it's got to be made
20 workable.

21 This contract is the linchpin, whether we like it
22 or not.

23 So, why don't you think about it? Why don't we
24 give you two weeks to think about it?

25 And I would just like to know when you come back,
26 if I answer is, "I can't do it," I'd just like to know why.

27 I have a lot of confidence in you only because of
28 everything that I read, and the fact that a lot of people that I

1 respect, many of whom are not here who have contacted me, some
2 of the people that I never even would have thought would.

3 So, you may understand why I see this great
4 disparity between what could be getting done and what is getting
5 done.

6 So, would you withdraw that motion?

7 SENATOR DUTTON: I'll be more than happy to
8 withdraw the motion.

9 CHAIRMAN PERATA: We'll have you come back in a
10 couple of weeks.

11 MR. GILB: Thank you.

12 CHAIRMAN PERATA: Thank you.

13 Thanks, everybody, for your time.

14 [Thereupon this portion of the
15 Senate Rules Committee hearing
16 was terminated at approximately
17 6:47 P.M.]

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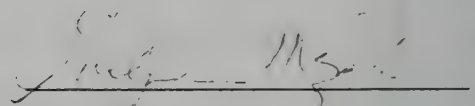
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of June, 2007.


EVELYN J. MIZAK
Shorthand Reporter

APPENDIX

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Appointments

The Honorable Don Perata, Chair
Senate Rules Committee
State Capitol, Room 400
Sacramento, California 95814

RE: CALIFORNIA STATE UNIVERSITY, BOARD OF TRUSTEES –
CONFIRMATION HEARING, May 23, 2007

Dear Senator Perata:

Thank you for the opportunity to share my thoughts on several matters of importance to the California State University (CSU), our great state, the students that attend and the faculty and staff which ensure that they meet their college objectives. I am proud to have been appointed a member of the CSU Board of Trustees and look forward to working with you and other members of the legislature to move this great university to even greater things in the years ahead. Below please find my responses to your letter dated April 19th to assist you, your colleagues and staff in preparing for my confirmation hearing later this month.

1. *Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the California State University Board of Trustees. How will you measure your success?*

Since my expertise and past experiences are in the area of biotech development and business, I would prefer to use this leverage to create more opportunities for our undergraduates and graduate students. This could be in the form of developing alliances with the biotech and bio-pharm companies in California leading to greater support to the CSU programs as well as job training and creation.

Secondly, I would like to play a role in helping disadvantaged, but highly-motivated students to stay long enough to complete their degree program. To start with, I have recently supported a few scholarships at SFSU, with the objective of encouraging students to complete what they have started. I will examine if this type of program can be expanded in the future.

2. *How would you evaluate the extent to which the CSU system is succeeding in its mission? What yardsticks are most important to you as you make this determination?*

One of the important missions, as I see it, is to increase CSU accessibility to eligible students who may not be aware of the educational opportunities being offered. The Chancellor's Office has initiated some successful outreach programs to the minority groups (African and Hispanic-American groups) that have resulted in increased enrollment in the CSU system. Another important

mission is the use of the Early Assessment Program (EAP) to enhance eligibility so that entering freshmen are better prepared in Math and English. Last but not least, the board should work more closely with the industry to identify the workforce needs so that we can educate and produce graduates that meet the demand of the ever-changing market place.

- 3. *What role does the board play in reviewing and approving executive compensation policies, such as offering transitional compensation, tenured faculty positions, and multiyear contracts to executives retiring or departing from the system? Do you believe the board should reassess these policies? Why or why not?***

I am aware of this issue concerning executive compensation and its implications. (The Chancellor's Office (CSU) needs the flexibility to determine the overall compensation of the key executives knowing full well that we have to be competitive in order to retain qualified executives and faculties). At the same time, I believe the top decision-makers, such as the board of Trustees, need to be mindful of the sensitivities of assigning excessive compensation with public funds. It is this kind of balancing act that the CSU system has to constantly deal with, and it must be done right and appropriately. In addition, the Trustees must continually be transparent to the public.

The board has a standard policy to monitor and approve executive compensation, with sufficient flexibility to make recommendations based on individual needs; a policy that ensures flexibility, accountability, and transparency. With information and data from comparable institutions, as well as the necessary resources, we should be able to provide a package that is fair and competitive.

- 4. *What is the CSU board doing to reevaluate its overall capacity to oversee and hold the system accountable on matters of compensation and other key issues?***

Given my limited time on the board to date, I cannot make any substantive comments on this issue. I am sensitive and aware of the importance of this issue and do believe that at this juncture with the changes we adopted in November 2006 we are solid in this regard.

- 5. *What meaningful information enables board members and the public to fairly evaluate compensation proposals?***

I can think of three parameters: a) salaries and benefits at comparable institutions, b) individual circumstances (e.g. special skills of the employee and/or level of difficulty of replacing such employee); and, c) financial health of the CSU. There may be others, but these are the ones that come to mind now.

- 6. *The board has the authority to establish, adjust, and abolish student fees. How does the board ensure that it is accountable to the public each time it increases fees? As a board member, what are the key factors you consider when deciding whether to approve student fees increases?***

I was the beneficiary of the CSU system in the early 1970's when it cost less given the support provided by the State. Personally, I would like to see less increase of fees to students but there are many issues and reasons for the fee increases that are a reality and need to be taken into account for the CSU: a) students in the CSU system are paying less compared to competing institutions elsewhere in the nation, b) shortfalls in state support and c) maintenance of quality of education. Another important consideration behind this is students who have demonstrated financial hardship do get financial assistance so they do not have to drop out of college due to fee increases or other circumstances. However, the board should continually monitor the consequences of fee increases to ensure they do not adversely impact student attrition rates, graduation rates and other tangible and measurable ramifications. If the negative impact significantly outweighs the positives from the fee increases, then we should re-evaluate if the

three reasons behind the fee increases are justifiable and what other options we have in light of limited state support.

As to how to chart the student fee increases according to a more reasonable scheme (e.g. inflation-adjusted increases), I have to do more studies before coming up with a workable proposal.

- 7. *California does not have an explicit policy for setting fee levels for any of the higher education systems. During tight budget years, student fees often increase quite steeply. Do you believe the state should develop a long-term state funding and student fee policy? If so, what role should the board have in developing such a policy?***

Certainly, I would like to see the state work with the CSU to develop a long-term state funding, student fee and financial aid policy that supports our mission and the state's workforce needs. It is my understanding that prior to my appointment the board did adopt a fee and financial aid policy but I remain committed to making sure we have a workable proposal to ensure healthy long-term state support while maintaining the quality of education in our CSU system.

- 8. *What is the CSU Board of Trustees doing to evaluate the affordability of a CSU education, beyond just the cost of student fees? Has the board examined the increase costs of textbooks and whether more state university grant aid should be available to help students cover this expense and other costs of attending college?***

I am not aware of what the board has done to evaluate the affordability of a CSU education. This is obviously a good question which I will try to get some answers for when I have a chance to do so.

- 9. *How does the board monitor the effectiveness of the early assessment program and whether it has helped increase the graduation rates of CSU students needing remediation in basic skills? Do you have empirical data? Are you satisfied with how the policy is being implemented?***

During my first few sessions attending the board meetings, I have been educated by the Educational Policy Committee headed by Gary Reichard, Executive Vice Chancellor and chaired by Herb Carter, Board of Trustees and I have become thoroughly aware of the Early Assessment Program (EAP) and its impact on the students. It is not news that more than half of our entering CSU class requires remediation in Math or English. This is not good because it shows our high school graduates are poorly prepared for college, which would mean high drop-out rates if not properly corrected. It is comforting to see some positive results from EAP showing steady performance improvement from 1998 to 2006. The proficiency data as of Fall 2006 shows the overall proficiency of Math at 63 percent and English at 55 percent, but unfortunately the scores have leveled off for the last six years. In addition, there is still work to do with the Hispanic- and African-American groups.

As to my level of satisfaction with how the policy is being implemented, it is premature for me to give an answer at this point as I have to study former and current policies and compare the results before I can make any qualified statement.

- 10. *How does the board evaluate which types of outreach programs are most effective in helping disadvantaged students enroll in college? Is the board kept informed of students' remediation needs once enrolled at CSU, and whether they are being met appropriately?***

I believe my answer would be the same for this question as it was for question nine. I need to take time to get involved with the outreach programs and their impact. However, these are very excellent questions that I would like to pursue if confirmed as a member of the board.

11. How do you evaluate the quality of coordination between CSU outreach programs and K-12 schools, to determine if it provides the best mix of outreach interventions? Is this an appropriate area for the board to weigh in?

I believe my answer would be the same for this question as it was for question nine. I need to take time to get involved with the outreach programs and their impact. However, these are very excellent questions that I would like to pursue if confirmed as a member of the board.

12. Do you believe that CSU's own teacher credentialing programs are benefiting from the lessons learned from the systems' early intervention efforts? Is CSU able to improve its preparation of high school, middle and elementary school teachers because of what it is learning about the lack of basic skills demonstrated by its own incoming students?

I believe the CSU's own teacher credentialing programs are reaping the benefits from the lessons learned from the system's early intervention efforts. I would like to see even greater interactions and collaboration between the EAP and teachers, which may require additional funding. Whether or not CSU is able to improve its preparation of high school, middle and elementary school teacher programs is an issue I need to study more closely.

13. Should the CSU Board of Trustees help campuses strengthen their capacity to respond more quickly to student demand for enrollment in programs that train them to enter high-growth fields? Conversely, should the board respond to declines in enrollment programs that are no longer in demand because of changing workforce needs? What is the appropriate role for the board?

I would like the board to help strengthen the capacity of CSU to respond more quickly to the demand of the workforce such as in the area of nursing, selected areas of teacher deficiencies, information technology and the health care sectors. Since board members have different experiences, they can serve different sectors of the workforces according to their unique expertise. I, for one, can help in the creation of more resources for health-related jobs. It is well-known that the CSU system is so critical in providing the necessary talents, such as 60 percent of our engineers, the majority of our school teachers and nurses and increasingly more biotech-related jobs, we must make sure that this kind of supporting role is maintained to ensure the vitality of our state economy. To fulfill this mission, the board should make sure each CSU campus has its unique contribution to make according to its particular area of concentration or expertise. Because some jobs do experience cyclical changes, resources should also be recycled to meet newer challenges. The CSU should not and cannot rest on its laurel if one of its major missions is to continue rolling out graduates to meet the ever-changing demand of the marketplace.

14. What is the CSU Board of Trustees doing to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students to enter high-growth fields?

I do have some in-depth understanding of the needs from the biotech and health-related fields which are the pillars of current and future growth in our state. It is important for the board to fully assess the long-term workforce needs and determine how we should respond and meet the demand. It is important for the board to be proactive in this pursuit rather than waiting for things to happen. I believe it requires some kind of understanding of the marketplace and the way it

evolves. Though highly trained to educate our young people, our educators may not be sufficiently trained to appreciate the dynamics of the marketplace and its relation to the changing workforce needs. Therefore, it becomes imperative to bring the educators and business people together to formulate a realistic plan and chart the best course for action.

15. What is the board doing to implement the fact finder's recommendations to establish a salary structure committee to examine the faculty compensation issues?

I am glad that the CFA and the CSU have reached an agreement to settle the dispute on the salary issues. The agreement will be acted on by the board at its mid-May meeting.

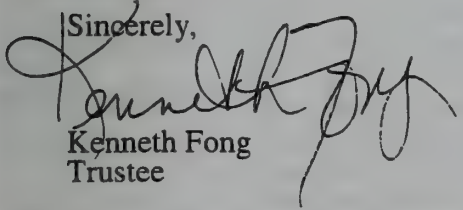
Concerning compensation, it is well-known that our faculty is not being paid as well as those at comparable institutions. There are a number of reasons behind it, but foremost among it is the budgetary constraint that is beyond the control of even the top decision-makers in the system. Because CFA represents thousands of faculties, a percentage point increase in salary means between \$20 and \$25 million a year, which can only be solved with additional money. Another issue has to do with the younger faculty who understandably prefer higher salaries to benefits and/or "perks." They need cash now and not later while more senior faculties may prefer benefit-related allowances such as housing, bonuses, sabbaticals, etc. Therefore, the recruitment process and compensation have to be individualized and somewhat dependent on the location of a specific campus (e.g. San Francisco vs. Sonoma).

No matter what we do concerning recruitment and compensation, we have to be mindful of the fact that the students and faculty are the most important assets of the CSU system. The role of the board is to serve their best interests in the name of the university.

16. Compensation is only one factor faculty use when considering job offers. Others factors affecting faculty member's decision to accept a new position include sabbatical, housing allowance and bonuses. In negotiating faculty salaries, does the board consider how employees' pay and benefits compare with those of similar employees elsewhere, and whether this affects recruitment and retention efforts of qualified faculty?

I believe my answer would be the same for this question as it was for question fifteen. I would just reiterate that no matter what we do concerning recruitment and compensation, we have to keep students and faculty a primary priority and this I believe is the role of the board when serving in the name of the university.

Sincerely,



Kenneth Fong
Trustee

cc: Members of the Senate Rules Committee
Roberta Achtenberg, Chair, CSU Board of Trustees
Chancellor Charles B. Reed
Nettie Sabelhaus, Consultant, Senate Rules Committee

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Senate Rules Committee

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Appointments

The Honorable Don Perata, Chair
Senate Rules Committee
State Capitol, Room 400
Sacramento, California 95814

RE: CALIFORNIA STATE UNIVERSITY, BOARD OF TRUSTEES –
CONFIRMATION HEARING, May 23, 2007

Dear Senator Perata:

Thank you for the opportunity to convey my thoughts on several matters of importance to the California State University (CSU), our great state, the students that attend and the faculty and staff which ensure that they meet their college objectives. I am proud to have been appointed a member of the CSU Board of Trustees and look forward to working with you and other members of the legislature to move this great university to achieve even greater success in the years ahead. Below please find my responses to your letter dated April 19th to assist you, your colleagues and staff in preparing for my confirmation hearing later this month.

1. *Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the California State University Board of Trustees. How will you measure your success?*

I am an alumnus of the CSU. As a graduate of CSU Chico, I have been able to pursue my dreams and goals for myself and my family due in great part to the high quality education I received from faculty, staff and fellow students. The opportunity I was given, by the campus and the system as a whole, has helped me to become who I am today – a businessman, a parent, a spouse, a sibling and a community leader. The one word that describes my sentiments about the CSU is *passion*. There is no question in my mind that the CSU is the vehicle for transformation for all people of this state; as it did for me and my five siblings all of whom also graduated from the CSU.

As a reasonably new member of the Board of Trustees, I have set two major goals during my time of service. First, to make sure that our students are able to not only enroll at the CSU, but actually complete their degree in a timely manner that works for their life situations. I do not expect to come back here someday and tell you all students graduate in four years considering the number of our students who are older, working, returning students with jobs and families of their own. I do, however, expect to tell you that we have found ways to facilitate graduation so that the system works for our students and they graduate with the units they need to complete their degrees without excessive units, thus creating the most efficient process possible.

My second goal will be to continue to ensure that all students have the same opportunity that I did at the university; specifically making sure that CSU continues to *serve the diverse people* of this great state. I am heartened by recent reports that we have seen an increase of 15 percent in Latino, 12 percent in Black and over 10 percent for Asian Pacific Islander applications for the new academic year. I believe that these statistics demonstrate that our work, along with church leaders and our "Super Sundays" of which I have been a part are paying off. I also believe that our work with our K-12 school partners, specifically our Early Assessment Program (EAP), is helping parents and students know what they need to do to prepare for college, and to eliminate the need for any remedial assistance after high school graduation. These and other efforts will remain a focus of my attention and participation.

2. *How would you evaluate the extent to which the CSU system is succeeding in its mission? What yardsticks are most important to you as you make this determination?*

First, I will evaluate our success based on increases in the number and make-up of applications to the CSU. Secondly, I want to track graduation rates by ethnicity and gender; average grade point averages of our students; and the majors that they pursue in their college careers. I believe we have a responsibility to meet the demands of the workforce in the future especially in the science, technology, engineering and mathematics fields of study. Thus I will be interested in seeing changes in the number and diversity of our students graduating from these related degree programs.

3. *What role does the board play in reviewing and approving executive compensation policies, such as offering transitional compensation, tenured faculty positions, and multiyear contracts to executives retiring or departing from the system? Do you believe the board should reassess these policies? Why or why not?*

The Board of Trustees hires the Chancellor as well as the campus presidents. In addition we adopt and oversee the implementation of all our policies including but not limited to faculty and staff contracts, executive compensation agreements and transition programs. I believe that this is appropriate as a governing board of the system with a responsibility to the students and the people of this state. The board also participates in the recruitment, hiring and evaluation of our campus and system executives helping to ensure we get the best of the best. I am currently serving on the search committee for the president at CSU Dominguez Hills and can assure you that it is a thorough and thoughtful process by all involved.

All of us on the board are very concerned about ensuring all our employees are receiving appropriate and competitive compensation. We recently received a report on the salary lags of faculty, staff and executives that confirmed that we are on the right track with our five-year plan to reduce all employee salary lags. Our current lags range from 17 percent for faculty to over 40 percent for our executives.

The Board did reassess its policies with regard to executive compensation just last November, and I supported the changes made in our policy to reinforce our commitment to transparency and accountability. We created what we are calling the "Transition II" program for executives hired after last December which is well-defined and has strict requirements. In addition we now require that all transition agreements be shared with the full board, and that the same be shared with the public during the next board meeting. I believe that these changes were helpful and appropriate; leading me to conclude that for now we do not need further changes.

4. *What is the CSU board doing to reevaluate its overall capacity to oversee and hold the system accountable on matters of compensation and other key issues?*

My prior answer addresses much of this issue. I would only add that the board takes their role and responsibility seriously, and each and every one of us is dedicated to this system, students, faculty and staff. We have a job to do and that is to make sure we have the right policies in place to achieve our objectives, and the right people making sure we implement them. I am confident that we have solid policies, and a good management team that cares about what you and I care about – giving students the education they deserve.

5. *What meaningful information enables board members and the public to fairly evaluate compensation proposals?*

First board members are directly involved in the recruitment and selection of our executives in the Chancellor's Office and at our campuses. There is no better way for us to understand the higher education market and the issues that California and CSU face in getting the best here. Secondly, we receive annual reports on faculty recruitment, faculty and executive salary reports completed by the California Postsecondary Education Commission (CPEC), and of late we have also been given reports on our own analysis of the national market with our competitors including how our total compensation programs do or do not help us be more competitive. Lastly we spend time on campuses, with students, faculty and staff learning about who they are, where they came from, and why they chose to be part of the CSU family.

6. *The board has the authority to establish, adjust, and abolish student fees. How does the board ensure that it is accountable to the public each time it increases fees? As a board member, what are the key factors you consider when deciding whether to approve student fees increases?*

I voted for the 2007-08 student fee increase of \$252 for the 2007-08 fiscal year. As a board and an individual, none of us like raising fees any more than you like raising taxes; however we ultimately have to consider our responsibility to make sure that the CSU offers quality programs with well trained and paid faculty and staff. The state budget does not provide funds to sufficiently address CSU and higher education needs, and has often been under funded or cut without restoration, leaving us no choice but to raise fees (with a commensurate increase in institutional financial aid) to support our mission and commitment to you as policymakers and the citizens of the state as a whole.

Key factors for me in making this decision were: the over-enrollment on our campuses; the costs associated with our compensation agreements including the ever-increasing costs of health care; the state's fiscal and political picture with regard to additional revenues being provided in the final state budget; the level of financial aid we provide and our students receive to make sure that the neediest students do not feel the effect of this \$250 per year; and finally the return on the investment the state and the individual get in going to CSU and earning their degree.

7. *California does not have an explicit policy for setting fee levels for any of the higher education systems. During tight budget years, student fees often increase quite steeply. Do you believe the state should develop a long-term state funding and student fee policy? If so, what role should the board have in developing such a policy?*

I believe that the state should reaffirm its commitment to higher education if we are going to have a competitive workforce and a healthy economy and society. Meeting this challenge will

take funding; funding which the state has not been able to afford when placed in competition for funding with prison and health care costs, K-12 and community college funding and other critical programs. I suppose that the state could develop a statutory policy that ensures appropriate levels of General Fund and predictable fee increases but I'm not sure that it would survive the first time the state's revenue drops, forcing cuts like those implemented in the early 1990's and earlier this decade. I hear that the prior statutory fee policy was not reestablished years ago because it did not really provide the predictability that it's promised students given state budgets. I suppose if we could develop something that recognizes the actual costs of offering higher education to be provided by the state; fee levels that are predictable from year to year for students; and a financial aid policy to make sure that needy students get the assistance they need it would be worth taking a look at it. But I admit I am cautiously hopeful that we could reach that point someday.

The board does have a fee policy that we discuss as we develop and eventually adopt our budget request to the state. It assumes that students should pay one-third of their cost of education and that the CSU set aside one-third of new revenues from enrollment growth and student fees for our State University Grants (SUGs) for CSU students. Unless and until the state funding for higher education shifts remarkably I am not sure I would recommend that we change our policy.

- 8. *What is the CSU Board of Trustees doing to evaluate the affordability of a CSU education, beyond just the cost of student fees? Has the board examined the increase costs of textbooks and whether more state university grant aid should be available to help students cover this expense and other costs of attending college?***

The board dedicates one-third of new student enrollment and fee revenue to our institutional aid programs to help cover the costs that are not covered by the state Cal Grant and federal Pell grant programs. Based on the report we received earlier this year on student financial aid and debt, I am comfortable that we are keeping college affordable at the CSU. We do have a group which includes faculty, students and staff looking at the issue of textbook affordability including how we might leverage better prices as a system. I have not been directly involved in that effort but expect to see a report in the near future. The other high cost for our students, 85 percent of which are commuters, is the cost of housing. We have several campuses that have been successful in effectively subsidizing the cost of housing for students (and faculty and staff) in high cost areas but it still takes money, land and manageable planning processes to address this significant expense.

- 9. *How does the board monitor the effectiveness of the early assessment program and whether it has helped increase the graduation rates of CSU students needing remediation in basic skills? Do you have empirical data? Are you satisfied with how the policy is being implemented?***

The key to the Early Assessment Program (EAP) is the array of programs available to students while they are in 12th grade to help them improve their English and math skills. While the EAP was first administered to high school juniors in spring 2005, few 12th grade interventions were in place in fall 2005 to help students who needed additional work in these areas. However, students who took the EAP in spring 2006 had access to several tools as high school seniors in 2006-07 such as the English and math websites that provide students with an opportunity to improve their skills. In addition, the 12th Grade English Expository and Writing Class that was developed by CSU and K-12 English faculty were more generally available in California public high schools. Implementation of this 12th course is optional on the part of high schools, but the California Department of Education is encouraging high school districts across the state to implement this class which helps students sharpen their expository reading and writing skills.

We will have in the future as part of our annual reports on academic preparation and our remedial policy, information about the extent to which students enter CSU better prepared as a result of receiving an early warning at the end of 11th grade. Anecdotally, I know that giving students this opportunity to make sure they are on track for college eligibility and what they need to do to be prepared for postsecondary work is only going to help more students be eligible and that is good news. I am satisfied with the implementation of this diagnostic tool especially the partnership with our K-12 schools, parents and others to make sure that as many students as possible voluntarily taking advantage of the test.

10. How does the board evaluate which types of outreach programs are most effective in helping disadvantaged students enroll in college? Is the board kept informed of students' remediation needs once enrolled at CSU, and whether they are being met appropriately?

The CSU issues annually a report that summarizes CSU academic outreach programs to students enrolled in K-12. This report for 2005-06 described seventeen CSU systemwide programs in addition to providing representative examples of the 169 outreach programs developed, implemented, and administered by CSU campuses. We are proud the Secretary of Education Margaret Spellings referenced CSU outreach programs in the final report of the *Commission on the Future of Higher Education, A Test of Leadership: Charting the Future of U.S. Higher Education*. The Secretary cited the EAP as one of the best national models to help students identify areas in which they need to do additional work in their senior year in high school. She also commended CSU's outreach programs that are raising awareness of college opportunities by reaching future students where they live in the community. We know already that Super Sunday and other CSU programs such as the *How to Get to College* poster have increased the number the Latino and African American students applying for admission to CSU. As I noted above, we will be assessing the effectiveness of the EAP program with first-time freshmen entering CSU in Fall 2007. We will continue to evaluate and determine our success as part of our facilitating graduation initiative to see who and how students are moving through college at one of our campuses.

11. How do you evaluate the quality of coordination between CSU outreach programs and K-12 schools, to determine if it provides the best mix of outreach interventions? Is this an appropriate area for the board to weigh in?

The CSU has responded to requests from the State Board of Education, the California Department of Education, and the Legislature to provide outreach and student academic preparation programs to K-12 students. These programs provide information and academic support to California's diverse population of K-12 students. Student academic preparation programs target students who are disadvantaged educationally and economically, who are enrolled in public K-12 schools that have low college-going rates, and who need assistance in strengthening basic skills in math and English. These programs provide academic support services that raise the aspirations and improve the academic performance of K-12 students about courses needed to meet admission requirements, help students acquire English and math skills needed to succeed in college, provide instructional programs for students requiring academic support before they matriculate at a CSU campus and provide retention services to students after they enroll in CSU. Our facilitating graduation initiative, campus accountability system and now the development of our updated strategic plan which we call Access to Excellence will educate all of us – the board, faculty, staff, K-12 and others what works and does not work relative to outreach programs. As I referenced earlier, we also receive an annual report on all academic preparation and outreach programs, regardless of fund source, giving us data on the program, the number of students it serves, the cost per student, etc.

As for the role of the board, we are not academic leaders but laypeople who have been asked to serve for the people of the state in overseeing the CSU. I believe that our best way to influence the outcomes of students is to ensure we have the best people leading our system and campuses; hiring great faculty and staff; getting the funds we need from all of you to keep the doors open and the quality of our programs high; and that we maintain our commitment to transparency and accountability each and every step of the way. Our new strategic plan, Access to Excellence, is a systemwide item that will be provided for board action – and it will offer directions and milestones that are both set by and reviewed by the board.

12. Do you believe that CSU's own teacher credentialing programs are benefiting from the lessons learned from the systems' early intervention efforts? Is CSU able to improve its preparation of high school, middle and elementary school teachers because of what it is learning about the lack of basic skills demonstrated by its own incoming students?

Yes. The results of our work with K-12 on the early assessment program as well as the customer satisfaction surveys that we have been conducting with our graduates and their employers over time had led us to make positive changes to our programs. The one example I know of are the changes that we have been making to ensure that all teachers do in fact know how to teach reading since it is clear that this is an area where our students, regardless of grade level and age, need assistance. We have also greatly increased our role in K-12 teacher professional development on what we have learned including our Reading Institutes for Academic Preparation.

13. Should the CSU Board of Trustees help campuses strengthen their capacity to respond more quickly to student demand for enrollment in programs that train them to enter high-growth fields? Conversely, should the board respond to declines in enrollment programs that are no longer in demand because of changing workforce needs? What is the appropriate role for the board?

The Board of Trustees annually reviews campus academic plans and programs to make sure we are meeting the workforce and student demands. In addition, a few years ago the board authorized campuses to initiate new "pilot" degree programs without first adding them formally to campus academic plans. This permits fast response to quickly-arising needs, and positions the standard five-year program review as the key occasion for quality assurance. Campuses also respond with non-degree training programs that target very specific regional needs through Extended Education divisions. These self-support, typically short-term, high-payoff training opportunities bolster workforce capacity in quick response to regional interest. The board does not nor should it get into the specifics of each degree program during our annual review of academic plans; but we do review them in the context of meeting the state and regional workforce needs. Given our mission, access for community college transfer students, the nature of local workforce needs, and of course our students who in many cases are place bound by their work and families, the regional perspective is especially important.

We do get involved in setting overall policy goals and objectives. For example we are holding campus presidents and their faculty accountable to the units required for a degree as well as reducing General Education requirements by at least four units to facilitate graduation for our students. The board does not tell them how, when or where; but we do give them the goals that we hold them accountable to in public session, and in their personnel evaluations.

14. What is the CSU Board of Trustees doing to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students to enter high-growth fields?

The system commissioned a report just about two years ago that analyzed the long-term workforce needs of the state and the role CSU plays in many of the high-growth fields. The board has worked with the Chancellor and campus presidents to reach out to these industries to find ways to expand our capacity given limited state dollars; provide hands-on experiences for our students in their chosen fields; met on a regular basis with industry leaders to discuss our curriculum but also partnerships to improve our programs.

In addition we have substantially increased the number of teachers overall as well as those teaching math and science over the last several years. We have also expanded our programs in nursing statewide using local partnerships with health care providers, hospitals and the like – and still hold out hope that the state will provide us the funding promised to achieve even greater capacity. Over half of us on the board have also participated in the development of a new strategic plan for the system known as Access to Excellence, for our future. That new plan will recognize and set directions for the system role in responding to workforce needs including high-growth fields. In addition, campuses have regional strategic plans that recognized long-term workforce needs and set directions for responding to identified needs in their communities.

15. What is the board doing to implement the fact finder's recommendations to establish a salary structure committee to examine the faculty compensation issues?

We just received word last week that the members of the California Faculty Association (CFA) have approved the ratification of our tentative agreement, which includes the creation of this committee. The board will take action during the May 14-15th meeting to also approve this contract at which time we will establish this committee and move forward on its work. We expect recommendations from the committee no later than September 2008 at which time the board will review and evaluate those recommendations with an intent to improve the existing structure.

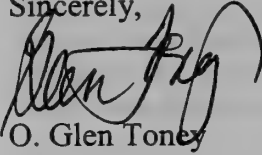
16. Compensation is only one factor faculty use when considering job offers. Others factors affecting faculty member's decision to accept a new position include sabbatical, housing allowance and bonuses. In negotiating faculty salaries, does the board consider how employees' pay and benefits compare with those of similar employees elsewhere, and whether this affects recruitment and retention efforts of qualified faculty?

Well, again I am not an expert in higher education however it is clear from my work on the board thus far that the system and its leaders take the issue of the recruitment and retention of our excellent faculty very seriously. We conducted an analysis using a private firm to analyze the total compensation of our faculty to accompany the CPEC annual salary study to help us keep this important issue before us. There is no doubt that our faculty, and staff and executives have salary lags that we need to address; thus we adopted a five-year plan to reduce all these gaps systemwide. We look forward to getting the additional one percent we will need each of the next several fiscal years above our base budget to achieve our goals to eliminate as much of these gaps as possible, which are approximately over 40 percent for executives and about 17 percent for our faculty. In our staff ranks there are wide variances between different types of jobs, classifications, etc. to address compensation. It is a big order but we need to address this issue, there is no question. I hope during my service on the board that we can work together to get the funds we need to make it reality.

The Honorable Don Perata
May 14, 2007
Page 8 of 8

Thank you, again for the chance to address some of the issues of interest to both of us with regard to the CSU. I look forward to seeing you on or before May 23rd and stand ready to answer any questions you have of me.

Sincerely,



O. Glen Toney
Trustee

cc: Members, Senate Rules Committee
Roberta Achtenberg, Chair, CSU Board of Trustees
Chancellor Charles B. Reed
Nettie Sabelhaus, Consultant, Senate Rules Committee

DEPARTMENT OF PERSONNEL ADMINISTRATION

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April 24, 2007

The Honorable Don Perata, Chair
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Dear Senator Perata:

Thank you for the opportunity to appear before the Senate Rules Committee on May 9th. I am honored to serve as Director of the Department of Personnel Administration in Governor Schwarzenegger's Administration.

As Director I am strongly committed to modernizing the State's human resource program in order to meet the critical need for recruitment and retention of state workers as we face the demographic reality of massive numbers of retirements in the coming years. This effort can only be accomplished through partnership and cooperation between Management, Labor, and the Legislature. I look forward to working together to accomplish these important goals.

The following answers to questions in your letter summarize these goals in greater detail.

Statement of Goals

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as director of DPA? How will you measure your success?

My goals as director of DPA are grounded in the reality that one-third of the State's workforce will be eligible to retire by 2010. That demographic reality must guide how we approach employee compensation, workforce development, personnel management, even bargaining. My success as director will depend on how well DPA leads the State in meeting this human resource challenge over the next several years.

Accordingly, I intend to focus my time as director on the following priorities:

- Modernizing the State's human resource system
- Improving our competitiveness in the labor market
- Elevating workforce planning as a management priority
- Ensuring state employees receive appropriate training and mentoring
- Developing the next generation of state HR professionals

Collective bargaining will be the mechanism to achieve a large part of this agenda. From my experience of 30 years in labor relations, including as a mediator, I've seen firsthand that

Senate Rules Committee

APR 25 2007

Appointments

partnerships with employee unions work on many kinds of projects. Ours will be no exception.

Modernize the State's human resource system

Without doubt, our top priority should be to modernize the State's HR system. We need a simpler system that everyone can understand, that streamlines hiring, and rewards competence and performance. Such a system will be essential to attract the new recruits we need to maintain our workforce, and to help current employees develop into the managers of tomorrow.

Once we succeed, it should be possible to explain the State's job structure, including the qualifications to be hired, promotional options, and pay grades, using a simple grid for each of the major occupational categories. College graduates would automatically qualify to apply for certain jobs, and hiring times for new state employees will be remarkably shorter. Working with one of the unions, we hope to roll out our first "grid" within a year.

One measure of our success with this effort will be the unions' interest in partnering with us as we extend the new system to all of the State's employment classes. Most importantly, our success will be measured by employee and employer satisfaction with the new system.

Improve our competitiveness in the labor market

DPA has already begun the process of re-establishing labor market surveys so that we can measure state compensation in relation to our competitors. This data must recognize the value of the total compensation paid to employees (i.e., the value of salary and benefits combined). We are also looking more closely at how compensation gaps relate to vacancy rates. We need this data to develop our own compensation policies, whether we're at the bargaining table or making decisions about management pay levels.

Although budget constraints may prevent us from quickly achieving competitive compensation across-the-board, the compensation survey and vacancy rate data help us to identify where compensation gaps are most severe. We are using the information gathered to date to address the most critical areas first, and will continue to prioritize our efforts using data gathered in upcoming surveys. Modernizing the State's HR system will also support this effort.

Success in these efforts will be measured by stabilizing vacancy rates and an adequate pool of candidates seeking state employment.

Elevate workforce planning as a management priority

A year ago, DPA released a workforce planning model intended to jumpstart departmental planning efforts. In addition, the State Personnel Board offers periodic classes on workforce planning for departments. While these are important steps, it's unclear how much progress departments have made in developing their plans for replacing retiring workers and developing the next generation of managers. I intend for DPA and the State Personnel Board to collaborate on ways to ensure that departments develop their own planning models.

Our success in these efforts will be judged by the numbers of state departments with appropriate workforce plans.

Ensure state employees receive appropriate training and mentoring

A variety of training opportunities are available to state employees, but we lack any mechanism to ensure employees actually receive the training they need. Perhaps the most critical area where we need to ensure compliance is supervisory training. This training is offered through CPS Human Resources, which now provides most of the courses previously offered through the State Training Center, as well as offering a number of new classes. In 2007, DPA will develop a plan to ensure that new state supervisors and managers receive their recommended and mandatory training.

Mentoring is another workforce development tool we should emphasize. Our soon-to- retire managers and supervisors, with their wealth of knowledge about business practices and leadership skills, should be trained and encouraged to coach promising new employees. Whether it's through formal programs or executive-level policy, I will press the case for mentoring as part of our overall workforce development strategy.

Furthermore, the HR Modernization plan will emphasize that the State's managers provide periodic evaluations and training plans for employees as part of managers' required core competencies. Tying these competencies to managers' job performance will help to ensure that all employees receive proper evaluation and needed training.

Develop the next generation of state HR professionals

The State's human resource professionals are critical to the success of our modernization initiative. Unfortunately, we've already lost many experienced personnel and labor relations employees in the past few years. DPA and the State Personnel Board must reinvent the current HR professional training to respond to the changing needs of the State's workforce. These efforts must emphasize the role of HR professionals in workforce planning and development, ensuring that employees receive appropriate training, and the concepts of HR modernization—including the need to look outside state service for new recruits.

Success will be measured in a working, modernized program to train the State's HR professionals.

Comprehensive Reform of State Civil Service

The Governor's Budget Summary acknowledges that "The State, as with most employers in the nation, will be facing the loss of many of its most experienced and knowledgeable employees as the baby boomers retire." The Budget Summary goes on to indicate that a task force has been assembled under the direction of DPA to "create a strategic plan for comprehensive reform of state civil service."

2. Please provide a status report on the work of the task force. Will the first year effort produce a strategic plan? If not, what is the timeframe for its completion and what elements will it contain? Also, please include a description of the process that will be used to gather information and identify priorities for action the State must take to update the civil service process.

DPA and SPB formed a joint task force and began work on comprehensive civil service reform this past January. By the end of March, the task force completed a draft report and draft strategic plan, and a budget change proposal to obtain funding for civil service modernization. The draft strategic plan will be finalized in the next few months. This plan identifies the process, priorities and the actions we will take to update the civil service system. Upon completion, the plan will be made available to the Legislature.

Modernizing the State's civil service system will affect all stages of employment: recruitment, testing, interviewing, classification, compensation, workforce planning, promotion and assessment. The current system we use to recruit, designate, and pay our civil servants was developed in 1913 when we had a few thousand state employees. The system worked then because of the relatively small number of public servants and types of duties performed. The system no longer works. It lacks the flexibility to accommodate an ever-increasing number of job requirements, and the need to compensate individuals for special skills and outstanding performance.

The new design, similar to that used by the federal government, will identify people by the skills they have and match those skills to specific jobs. Because this "competency-based" method requires the person doing the hiring to identify the knowledge, skills, and abilities required to perform each job, it allows distinctions that our current "duties-based" system cannot accommodate. The new system will allow us to focus recruitment, provide specialized candidate lists, and create pay programs based on the value of the skills required for each job.

We've completed much of the preliminary work to assess what is wrong with the current system and what needs to change. Development and deployment of the competency-based system will begin very soon. We will need the direction, cooperation, and resources of the Governor's Cabinet, the Legislature, state labor, management, and our constituents.

Our work plan requires us to bring together a team of individuals for each occupational group that understands the requirements to perform the particular jobs within that group. This team will include representatives from affected departments and labor groups and be responsible for the design of that group's competency, pay, testing, and assessment structure.

The Department of Finance recently submitted a Finance Letter for \$2.8 million to develop and implement the Human Resources Modernization Project. The Finance Letter indicates this project will span seven to eight years and the first year will focus on the development of a comprehensive plan to reform the process by which the State brings new employees into civil service, how salary calculations are conducted, and how employees can promote once they are working for the State.

3. Given that the project will take seven to eight years, what support will departments receive during the intervening years to address the critical issues of recruitment and retention that the project is designed to address?

Here is what I plan to do:

- Consult with departments to identify significant retention and recruitment problems.
- Prioritize recruitment and retention needs on a statewide basis and identify internal salary relationships between impacted classes by occupational group.
- Conduct and expand total compensation surveys, initiated in 2006, to further identify salary gaps and develop appropriate collective bargaining strategies for impacted classes.
- Monitor individual departmental workforce planning efforts to identify statewide skills gaps and impacted classifications.
- Work closely with the State Personnel Board to improve recruitment strategies, and provide policy direction and training to departmental staff on existing and new processes.

4. While the State is waiting for the results of the project, what do you believe are the five most important things state government should do regarding its workforce and workforce development?

1. **Hire quickly:** We must develop strategies for quickly bringing in both entry level college graduates and outside leaders, areas where shortages are projected. Our current bureaucratic exam and hiring methods take too long; we are losing the best and the brightest who find jobs quickly in the private sector.
2. **Compensate fairly:** We need to remain competitive in the labor market. To do that, we must identify and address areas where salaries lag, where we suffer from compaction, and where recruitment is low.
3. **Marketing:** We need to ramp up our marketing efforts to convince people that the State offers superior career opportunities. If we want to compete with other employers, we need recruitment strategies on a larger scale than what we are currently using.
4. **Reinvent the workplace:** The State should consider creative approaches to working that will attract today's workers into state service while improving services to the State's inhabitants. Private businesses are driven by outcomes, not process, and utilize work models that incorporate teleworking, flexible scheduling, increased reliance on technology.
5. **Prepare HR professionals:** We need to partner with SPB to educate and train the next generation of HR professionals to ensure that our efforts to modernize the State's HR program succeed, and we must elevate the importance of workforce planning. These employees will be our agents of change.

5. *As Director of DPA, how would you suggest the State prioritize classifications (positions) for recruitment and retention?*

I consider these questions when prioritizing classes for recruitment and retention:

- Is the class associated with a legislative mandate or court order?
- Is the class essential to the State's programmatic priorities (e.g., health, safety, infrastructure)?
- Does the class have high vacancy rates and/or significant salary lag (e.g., 20% vacancy rate over the past 12 months and 20% salary lag in the market)?
- Are vacancy rates projected to be high in the future?

Compensation

A common complaint in state service is that in order to reward an exemplary staff person it is often necessary to promote that individual as a supervisor.

6. *Has DPA considered establishing a mechanism to compensate individuals for exemplary performance without requiring promotion to supervisor or manager level positions? If so, please explain your strategies.*

We need to do more and eliminate the need in some classes for individuals to move to supervisor or management levels to receive higher pay. This is a key feature of the HR Modernization project and is precisely the focus of the compensation component.

As we move to convert our HR system into a competencies based system, we will begin to reward employees specifically for their individual contributions, special skills, exemplary performance, and their increased value to state service. Salary and promotional advancement will be based primarily upon demonstrating growing levels of knowledge, skills and abilities. Employees will move through expanded, labor market based salary ranges as they gain higher education and greater experience and as they provide greater contributions to the State. While the system will still provide for salary advancement for employees who "simply do their jobs," it will provide the flexibility to reward employees who excel. The avenue to greater compensation will not be limited to movement to the supervisor or manager areas. To the contrary, supervisory and managerial salary ranges will provide for advancement based upon demonstrated supervisory and managerial skills. This approach is now being used successfully by many public and private sector employers, including the Federal government.

In addition, we do currently have a mechanism to compensate individuals for exemplary performance and skills without requiring promotion to a supervisor or manager level position in some areas, including the information technology series, the scientific series; the attorney series, and certain health program and the financial management series. In other classes we use pay differentials to recognize special skills, education, or certifications; and bonus pay programs (another form of pay differential) to recognize exemplary performance.

Training

Some staff may want to promote to a supervisory position but are concerned about their understanding/ability to be in such a position.

7. What standard training does the State provide on "how to be a supervisor"? Who provides the training? If there is not a standardized training program, what are your recommendations regarding supervisor/management training in state service?

CPS Human Resource Services, a joint powers governmental agency, provides training to public sector employees, including an 80-hour course on "how to be a supervisor." The course covers topics such as the role of the supervisor, techniques for employee development, approaches to leadership, problem solving and decision-making, employment law, delegation and effective time management.

State law requires that all new supervisors take at least 80 hours of training on how to be a supervisor. Until 2002, DPA provided this training at the State Training Center. Because of budget cuts the State Training Center was closed. CPS now provides the same classes once provided by the State Training Center with additional classes of their own design. DPA plays an important role by educating departments about the requirement for new supervisory training and availability, but it is likely that some departments do not follow this mandate.

I have directed DPA staff to create a plan for oversight of the supervisory training requirement, as well as other mandated training. My goal is to monitor departments' efforts in this regard, and work with departments' personnel offices when we find gaps.

I also want to enhance training for supervisors and managers. One of the key components of HR Modernization is training. As we identify the competencies required by specific jobs, a natural outcome is a listing of the training needs to achieve the required competencies.

Supervisors and managers will be given a list of the training needs for their employees, by job, and in fact will be accountable to ensure that their employees receive the appropriate training to do their assigned jobs.

8. What are your recommendations and proposed strategies regarding training for all state employees? What role should DPA play in providing training?

CPS is doing an outstanding job offering all of the training formerly provided by DPA and has nearly doubled the number of courses offered. The burden now falls to DPA to work with departments to ensure that adequate and appropriate training is actually being taken.

HR Modernization contains a strong training component at all levels. As training needs are identified that are not currently offered, DPA will work with CPS to make sure they are developed and offered. Managers will be required to provide periodic evaluations and training plans for their reports. Managers will be assessed on how well they perform these core competencies, and their performance will impact their salaries and career growth potential.

DPA will partner with SPB to ensure that HR professionals in all departments become trained in the components of HR Modernization. As stated earlier, DPA envisions an a new academy for HR professionals focused on labor relations issues, the components of HR modernization, workforce planning, and other aspects of overseeing civil service laws and rules.

Collective Bargaining

9. What, if any, pressures will the Governmental Accounting Standards Board 45 ruling, which requires an accounting of health benefit commitments, have on DPA's future bargaining efforts?

While GASB 45 will not change the State's liability for future health care costs, determining what this total liability is and airing it publicly may affect a variety, or even all, of the State's fiscal concerns. Post-employment retirement benefits are not included in collective bargaining agreements at this time, and it would be difficult to predict with accuracy what, if any, affect these liabilities for future health care costs will have on our bargaining efforts.

We will continue to work closely with the Department of Finance to determine what resources can be committed to compensating the workforce, and then work to identify and prioritize workforce needs while bargaining with the unions to allocate those resources.

10. Please explain the impact, if any, of the recent changes in the health and retirement benefits for new employees will have on future recruitment efforts.

The health benefit vesting program was initiated in 2006 during main table negotiations with most of the unions. This program was designed to address to address rising costs in health benefit premiums and was looked at more favorably than other options.

DPA has heard concerns from departments regarding their ability to attract employees from outside state service since the health benefit vesting program began in January 2007, especially when recruiting from other public sector entities. However, it is too early to recognize the effects and to tell how widespread they may be. The concern has been primarily in the law enforcement field. However, with only law enforcement in bargaining unit 7 affected, any effects would be limited to primarily peace officers, such as, in the Department of Justice, Department of Parks and Recreation, Department of Fish and Game and investigators in several agencies.

DPA has been looking at available options to deal with problems as they arise and we are working with state departments on a case-by-case basis when looking at the total compensation package offered to prospective employees. There are options which would allow the State to offset the increase in out of pocket expenses for new employee dependent health benefits if necessary.

We don't think that the changes to the retirement benefits will have an effect in the State's recruitment efforts. Even with the changes agreed to with the unions in 2006 negotiations, the State still provides a good retirement benefit.

Lately it has come to the attention of the Legislature that, after agreements are final, DPA signs many "side letters" with bargaining units. Side letters are addenda to a properly ratified Memo of Understanding regarding any issue that may be collectively bargained. The Legislature now approves certain side letter agreements pursuant to legislation recently enacted.

11. How many side letters are generally agreed to each year? What are the most common reasons for these side letters? Do you believe that the apparent need for side letters represents a flawed approach to the State's collective bargaining process? Why or why not?

The numbers of addenda to memoranda of understanding (sometimes referred to as side letters) differ annually depending on whether new MOUs are being negotiated in a given year or not. If a MOU is being negotiated, our goal is to include all known business needs in the MOU at the time of bargaining. However, these agreements contain hundreds of provisions. It is impossible at the time of bargaining to anticipate every possible need that might arise for departments with regard to the State's 4,200 employee classifications. Any change in salary or working conditions for represented employees not covered by MOU or existing law must, by law, be negotiated at the bargaining table. Even if a department simply wants to provide, for example, a night shift differential to a single class of employees, it is subject to bargaining.

A department or a union may request that DPA reopen negotiations at any time to address specific work-related issues. Usually, these negotiations are related to narrowly defined classifications of employees and are intended to solve problems, such as the need for salary restructuring in order to achieve specific goals or to address problematic issues in the workplace. Most often, addenda are initiated by departments that have identified a specific business need that must be addressed due to a gap or discrepancy in how employees are compensated. They can also relate to working conditions and be non-fiscal in nature.

The vast majority of side letters are an ongoing and necessary result of managing the State's human resources needs. However, side letters have, in the past, been used to create agreements in a secretive manner in order to avoid public scrutiny. We now have laws in place to prevent these actions and I am committed to adhering to these new requirements. Finally, DPA and the unions should work harder to include all known business needs in the MOUs at the time of bargaining.

Recruitment and Retention

The Legislature has been approached both by management and the union representatives expressing concern about the ability to recruit and retain employees in many specific positions.

12. How can the collective bargaining process be used more effectively to address these issues [i.e., the State's ability to recruit and retain employees in many specific classifications such as the medical series of classifications, scientists, and specialized safety classes such as fish and game wardens]? Are there other corrective action strategies that can and should be used by the Administration and the Legislature to address these recruitment challenges?

Labor market surveys and analyses are now being used and are the most valuable tool we have to more accurately assess state salaries against other states and local public agencies. Bargaining based on accurate comparative data will ensure that compensation shortfalls are more appropriately addressed. This process also allows us to prioritize our adjustments based on the greatest lags to the market. Ensuring appropriate compensation levels will aid in recruitment and retention.

Staffing Conditions at State Hospitals

13. What is DPA doing to address the current staffing conditions at the state mental hospitals? To what extent do these salary disparity issues have an impact on other areas of state employment? What departments are impacted? What classifications are impacted? How is DPA addressing these issues?

We are in negotiations with impacted unions to increase salaries for classifications comparable to those increased in CDCR by the federal receiver. Specific departments impacted include the Departments of Mental Health, Developmental Services, and Veterans Affairs. Classes impacted include physicians, nurses, psychiatrists, psychologists, social workers, and other medical related classes. A chart listing all classes is attached.

DPA has focused its efforts to address staffing conditions at the state mental hospitals and others using medical classes. These efforts are directed at employee classes that are identical or directly related to the CDCR medical classes which have received salary escalations:

- We identified the many affected employee classes and determined appropriate salary levels relative to the salary levels ordered by the receiver.
- We formed and spearheaded a task group with the above three state departments and developed a joint BCP to address the need to increase salaries.
- We have entered into negotiations to provide the salary increases to the affected employees (Coleman-related).

To the extent that there is a ripple effect to other classes of employees, that impact will likely affect bargaining for new contracts in 2008.

Salary Compaction

14. How does DPA track issues such as salary compaction across departments and classifications? How is salary compaction dealt within the collective bargaining process?

DPA maintains salary comparison charts for various bargaining units and associated excluded classes by occupational groups.

Typically, compaction issues tend to exist at the supervisory and managerial levels. Therefore, salary compaction is not commonly addressed in the collective bargaining process. However, once salaries are negotiated for rank and file, DPA makes an assessment on the impact to supervisory and managerial classes.

April 24, 2007

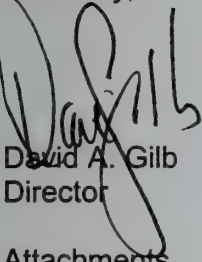
Page 11

We then work with the Department of Finance and the Administration to eliminate compaction as soon as it is fiscally possible.

In the July 1, 2006, salary program, DPA made equity adjustments to excluded classes to alleviate salary compaction. This was a first attempt at ensuring a minimum 5 percent difference between supervisors/managers and their reports. Bargaining was used to maintain the 5 percent salary difference between managers and subordinates.

In closing, I am pleased to serve the State's workforce and employers in the Schwarzenegger Administration. I hope that these answers have fully addressed your questions. If I can answer any additional questions, please contact me at 324-0496, or Pamela Schneider, DPA Legislative Coordinator, at 327-2348.

Sincerely,



David A. Gilb
Director

Attachments

cc: Nettie Sabelhaus, Appointments Director
Senate Rules Committee

Chris Kahn, Legislative Secretary
Office of Governor Schwarzenegger

Michael Prosio, Chief Deputy Legislative Secretary
Office of Governor Schwarzenegger

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